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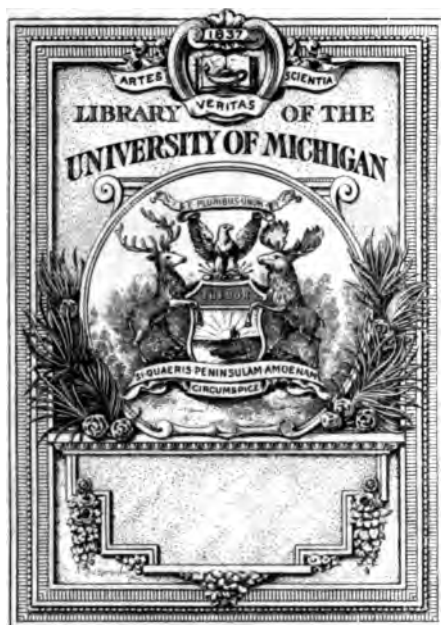
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**A
V I E W
OF THE
C O N S T I T U T I O N
OF THE
B R I T I S H C O L O N I E S
IN
N O R T H - A M E R I C A A N D T H E W E S T I N D**

**AT THE TIME
The CIVIL WAR broke out on the Continent
AMERICA.**

**IN WHICH
Notice is taken of such Alterations as have hap
since that Time, down to the present Period**

**WITH
A Variety of COLONY PRECEDENTS, which are chief
ly adapted to the BRITISH WEST INDIA ISLANDS; and
be useful to those, who have any intercourse wi
COLONIES.**

**By ANTHONY STOKES,
Of the INNER TEMPLE, LONDON; BARRISTER AT
His MAJESTY'S CHIEF JUSTICE OF GEORGIA**

**L O N D O N :
PRINTED FOR THE AUTHOR :
AND SOLD BY B. WHITE, IN FLEET-STRE
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P R E F A C E

THE Editor of the following Sheets
ing resided several years on the C
nent of America, and in different Islan
the West Indies, he flatters himself that
not altogether unqualified for the present
dertaking.

When he had determined on going ab
in 1762, he in vain sought for some
that would afford him an insight of the
stitution and Mode of Proceeding in the
lonies : he was equally unsuccessful in
search after Colony Precedents ; for in al
English Law Books he met with, he doe
remember to have found half a score Co
Forms. These disappointments early sugg
to him the utility of a Compilation of
fort, and he soon began to collect Prece
for that purpose.

The Editor having taken a decided pa
the cause of Great Britain against her Re
ed Colonies, he was, on the breaking o
the Troubles in the Southern Provinces, i
a Prisoner by the Americans ; and after b
confined some weeks, he was exchanged,
liberty to leave the Country ; on which he
turned to Great Britain, and then bega

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Class. 5-8-31 IWN.

ii P R E F A C E.

digest the Precedents he had collected, with an intention of making them public ; but before that was done, he received an order to go abroad, and resume the exercise of his office, in consequence of the reduction, by his Majesty's Forces, of the Province from whence he came. The King's ship in which he embarked having received some damage in an action with the enemy on the coast of France, he returned to Great Britain to be refitted, which afforded the Editor an opportunity of revising his Work: and, on his second embarkation, he left directions to have it printed ; but a Bookseller having declined to do so, the Editor is now enabled to notice such alterations as have taken place between the year 1779, and May 1783.

The Province in which the Editor resided being evacuated by the King's forces, he hurried home to his native Country, in hopes of spending the remainder of his days in the enjoyment of his family and friends, after escaping many dangers, and undergoing much sickness, by a long residence in unwholesome climates ; but when he arrived at his own door, he was informed of the death of his only son, a young man of the most promising hopes, whose moral qualities so thoroughly kept pace with his literary acquirements, that it was doubtful in which he excelled. At the age of twenty-two, he died esteemed and lamented by all that knew him ; and he never occasioned his parents any grief but what they experienced

P R E F A C E. iii

at his death. The Reader will pardon this digression, as a tribute due from a father to the memory of the best of sons ; in comparison of whose death, all the Editor's other misfortunes are become trifles light as air.

The tears being wiped away, I resume the subject.—During the siege of Savannah, the Editor's quarters were burned by a shell from the enemy's lines, and most of his papers were destroyed : but he has since met with other Precedents, some of which are inserted herein.

The Editor is but too sensible of the numerous imperfections of this Essay ; however he flatters himself, that as it is the first attempt of the kind, the Public will shew him some indulgence ; since this feeble endeavour may induce an able hand to undertake the subject.

In this Work there are a few strictures on the conduct of some Colony Officers ; but the Editor could not prevail on himself to mention the names of those Colony Officers, nor of the Countries where they resided : Christianity enjoins charity and benevolence towards all men ; his resentment, therefore, is levelled at the misconduct, and not at the individual.

There are other Colony Officers whom the Editor wishes to notice with great respect ; and particularly Sir James Wright (Governor of Georgia, from the second year of his present Majesty's reign, down to the Evacuation of that Province in the summer of 1782),

whose fidelity to the Crown, and unwearied attention to the welfare of the Colony in which he presided, are too well known to need the Editor's mention of them. He also begs leave to express his esteem for Sir Ralph Payne, formerly Governor of the Leeward Islands; General Tonym, Governor of East Florida; and Colonel Martyn, Governor of North Carolina. The great humanity which Governor Tonym shewed to the loyal Refugees, who went from Georgia to St. Augustine in 1776 and 1782, must endear him to all those who feel for the virtuous under misfortunes: and it is desired that the Reader will not apply to either of the Governors above named, any instance of misconduct or mistake which this Work mentions to have been committed by Colony Officers. The character and conduct of most of the Colony Governors, and other Officers, the Editor is unacquainted with, and he would be sorry to give offence to any of them.

In order to confine the Publication to one Volume, it was found necessary to omit several Conveyances, and other Colony Precedents. Some inaccuracies are discovered to have escaped the Editor, which it is hoped the Reader will excuse, when he reflects, that the polished style, which is only to be derived from an intimate acquaintance with the French Lettres, cannot be expected from a man whose profession leads him to the study of French Reports, and Law-Latin, and not the Black Letter.

P R E F A C E.

Should the Gentlemen of the Law from the Colonies discover any mistakes in this Production, the Editor will consider as a great favour their pointing out such mistakes, by a line directed to him at the Bookseller's: and the assisting him with any useful Colony Precedents, that might contribute to render this Performance more useful, in case a second Edition should be called for, would add to the obligation.

P. S. The Editor has just recollected his having mentioned, in page 138 of this Work, "That the King's cause in the Colonies was greatly weakened by bestowing the lucrative offices there on persons residing in Great Britain:" he therefore thinks it necessary to observe, that he apprehends the nomination of Colony Officers was left to the American Minister for the time, with whom also the leave of absence originated. The Editor's attachment to the person and government of his Royal Master (the best of Kings), in whose service he has undergone many trying scenes, has induced him to say so much, to prevent misconstruction: and he flatters himself that no Gentleman who held the Department of American Minister, can take offence at the passage above quoted, as nothing more was done by those Ministers, than had been practised by their predecessors from the first Establishment of British Colonies.

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A man who has observed the misery which the Americans brought on themselves by subverting his Majesty's Government, will put a true value on the inestimable blessings of a patriot King, and the best Constitution on earth ; and will be particularly cautious of saying any thing that can be construed into a disrespect of either.

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INTRO-

INTRODUCTION.

BEFORE I enter on the immediate subject of this Compilation, I must intreat the Reader's patience whilst I take notice of the different European powers that have settlements in America, and amongst whom such parts of the New World as do not remain in the hands of the Indians, or in the possession of the United States of America, are at present divided; which is the more necessary, on account of the change of property occasioned by the late Peace. It may not be improper in the first place to premise, that America was discovered by Christopher Columbus, a Genoese, in the service of Spain, on the 16th day of October, 1492, and took its name from Americus Vesputius, a Florentine, who, in the year 1497, was employed by the Spaniards, or, as some say, by Emanuel king of Portugal, to make further discoveries. But the French pretend, that the Basque fishermen frequented Newfoundland before Christopher Columbus found out the New World.

The story mentioned by Postlethwayt in his Dictionary, of a Welsh prince having discovered America in the year 1109, I take to be altogether fabulous.

On the discovery of America, Pope Alexander the Sixth, by Bull, gave the New World to Ferdinand and Isabella, king and queen of Castile and Arragon, as if he had a right to dispose thereof,

of. See an Extract from this Bull in Vattel's Law of Nations, fol. 90, *in notis*.

In the year 1497 or 1498, John Cabot was employed by Henry the Seventh, king of England, to find a North-west passage to China; but although he failed in that attempt, yet he discovered the North-east Coasts of America, which compose the greatest part of the British Colonies in that quarter of the world. Sebastian Cabot accompanied his father in that expedition; but was not the person employed by Henry the Seventh, as is commonly said.

This great Western Continent, which is frequently called the New World, is said to extend from the 80th degree of North Latitude to the 56th degree of South Latitude: And its greatest known breadth is from the 35th to the 136th degree of West Longitude from London. Its greatest length is said to be between eight and nine thousand miles; and its greatest breadth about three thousand six hundred and ninety. It is bounded on the East by the Atlantic Ocean, which separates it from Europe and Africa; and on the West by the Pacific Ocean, or South Sea, which separates it from Asia. It is divided into North and South America; and both these great peninsulas are joined together by the Isthmus of Panama, which, at Darien, is only sixty miles wide. The English Spaniards, Portuguese, French, Dutch, and Danes, are the only European nations that have Colonies in America, unless some of the Islands between America and Asia, which are claimed by the Russians, are nearer to the American than the Asiatic shore. Soon after the discovery of America, the Spaniards possessed themselves of the largest and best parts of it. In North America they have all that part of Louisiana, which

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which lies to the West of the river Mississippi, New Mexico, California, and Old Mexico; and by the treaty of Versailles, Great Britain has ceded to Spain the two provinces of East and West Florida. In South America the Spaniards possess Terra Firma, or Castilla del Ora, Peru, Chili, and Paraguay, or La Plata. They have also the Islands of Cuba, Porto Rico, Trinidad, Margarita, Juan Fernandez, and a great part of Hispaniola, or St. Domingo; besides a great number of small Islands, both on the East and West-side of America, that are too insignificant to be enumerated.

In South America the Portuguese have Brasil, which was discovered by Americus Vesputius in 1498, and lies between the Equator and the 35th degree of South Latitude; and some small Islands on the coast of Brasil, the principal of which are Fernando, St. Barbara, and St. Catharine's.

Since the cession of Canada (or Quebec) to Great Britain, and of Louisiana to Spain, the French have no settlement on the Continent except that at Cayenne, situate between the Equator and the 5th degree of North Latitude; but they have a great part of that large Island called Hispaniola, or St. Domingo, which is the most valuable of all their American Colonies. The French have also Guadaloupe, Martinique, St. Lucia, and several small Islands, such as Marigalante, Desadea, the Saintes, Bartholomew or Barthelemi, Cayenne, and part of St. Martin's: And by the Preliminary Articles of 1783, Great Britain has ceded to France the Island of Tobago. St. Lucia was captured by the English in the last war, but was restored to the French on the late peace.

The Dutch have several Colonies on the Continent of America, situate a few degrees to the

north of the Equinoctial, which lie on large rivers. The principal of these settlements is at Surinam, which once belonged to the English; the others are Berbice, Demerara, and Essequibo; but these Colonies are not in a flourishing condition, owing to the land being low, and subject to floods; and Surinam and Demerara have suffered much from insurrections of the Negroes.—Some of these Dutch settlements (and in particular Demerara) are inhabited in a good measure by unfortunate planters from the English West India Islands. The Dutch have also the Islands of St. Eustatius, Saba, and part of St. Martin's to windward; and to leeward, near the Spanish main, they have the Islands of Curassou, Bonaire, and Aruba: but these Islands are small, and barren, and derive all their consequence from the contraband trade which the Dutch carry on with the Colonies belonging to other powers. In the last war, Demerara, Essequibo, St. Eustatius, Saba, and St. Martin's, were captured by the English, but retaken by the French. When I paid my respects to the Governor of St. Eustatius on my going to see that Island in 1763, he informed me, that in the former French war, before the English broke up the trade between St. Eustatius and the French Islands, he had seen upwards of two hundred and seventy sail of vessels in the Road of St. Eustatius at one time. I have lately been informed, by an acquaintance from the West Indies, that before Lord Rodney took St. Eustatius, there had been six hundred sail of vessels in the Road of St. Eustatius together. The Danes had no footing in America, until the English gave them St. Thomas's, one of the Virgin Islands; and after they had settled it, they took possession of St. John's, a small Island, which is
said

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said to have been the property of the Paynes of St. Christopher's. Between thirty and forty years ago, the Danes purchased the Island of Santa Cruz, or St. Croix, from the French; and it at first belonged to a Danish Company, but has for several years past been in a Royal Government, and now produces almost as much sugar as any Island the English have, except Jamaica and Grenada. The Danes owe the settlement of their Islands chiefly to the Refugee Debtors from the British Colonies, and by much the largest portion of the inhabitants of Santa Cruz are English. When I was in the West Indies, I observed that several persons in the British Islands, who owed more than they were worth, on being sued for payment of their debts, they privately embarked in some out bay, and retired to a Dutch or Danish Island, carrying with them such of their slaves and other property as they could conveniently remove. In those foreign Islands they obtained the privileges of burghers for a small sum, and were considered as Dutch or Danish subjects by the Governors, who frequently protected them against the demands of their creditors, until remonstrances were made against those abuses.

The Island of St. Thomas is considerable only for the goodness of its harbour, which the king of Denmark made a free port some years ago: and after the capture of St. Eustatius, a vast commerce centered at St. Thomas's. The Thirteen United States of America, *viz.* New Hampshire, Massachusetts's Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, are situate on the North-east coasts of America,

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America, and extend from North Latitude 30 degrees and an half to 48 degrees; and from West Longitude 66 degrees and an half to 98 degrees and an half, having a sea-coast of 15 degrees of Latitude. But the particular boundaries of those States may be seen in the second article of the Provisional Treaty between Great Britain and the United States; and in Faden's Map of those States, published in 1783. Most of the lands within those boundaries are in the possession of the Indians.

A VIEW

A
V I E W
OF THE
CONSTITUTION
OF THE
BRITISH COLONIES;
&c. &c. &c.

CHAP. I.

Of the British Colonies in America.—The Nature of their Dependence on the Mother Country at the breaking out of the Civil War on the Continent of America—with such Alterations as have taken place down to the present Period.

COLONY (*Colonia*, from *Colonus*, a Farmer) signifies a Company of People sent to a remote place, to dwell there, and cultivate the land.

Plantation in the Sugar and Rice Colonies, denotes a piece, or tract of land, which is either granted to, or purchased by, a person to cultivate for his own use. But in the Northern British Colonies, where the produce is similar to that of England, the lands they cultivate are more frequently called Farms, than Plantations; as they

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informed me, when I was at New York. In a more extended sense, a Plantation is a place to which people emigrate, in order to dwell there, with an allowance of land for their tillage, and immunities for the good of themselves, and the Metropolis, or Mother Country to which they belong; and in this acceptance, the word Plantation is used to denote a British Settlement in America. In strict propriety of speech, Colony denotes the people emigrated, and Plantation the place in which they are settled; but these words are often used in a synonymous sense, both in Acts of Parliament, and on other occasions. See Statutes 5 Geo. II. c. 7.—6 Geo. III. c. 12.—18 Geo. III. c. 12. f. 1.—22 Geo. III. c. 75.—Show. Parl. c. 31.

Colonies generally consist of persons who voluntarily offer themselves, either upon the hopes of mending a broken and decayed fortune, or else of such as are out of humour with the Government, and willing to be out of its sight, when they find they are not to expect favours from it. See Puff. L. N. & N. l. viii. c. 11. f. 6. and l. viii c. 12. f. 5.

Province (*Provincia*) hath several different acceptations. Amongst the Romans it was used for a country without the limits of Italy, gained to their subjection by conquest; but, in general, it is used to denote the division of a kingdom or state, as they are usually distinguished by the extent of their civil or ecclesiastical jurisdiction. With us, a Province signifies, 1st, An out-country, governed by a Deputy or Lieutenant: and 2dly, The circuit of an Archbishop's Jurisdiction. When the British Settlements in America are spoken of in general, they are called the Colonies or Plantations: If it is a Government

on the Continent, where the King appoints the Governor, it is usually called a Province, as the Province of Quebec; the Province of Nova Scotia: but before the Civil War in America, a Plantation, in which the Governor was elected by the inhabitants, was usually called a Colony, as the Colony of Connecticut. The word Province is never applied to an insular Government, for it is not usual to say, the Province of Jamaica; but the Island of Jamaica, the Island of Barbadoes, the Government of the Leeward Charribbee Islands, &c.

For some time before the Civil War broke out in America, the popular leaders there affected to call the Provincial Establishments, or King's Governments on the Continent, "Colonies," instead of "Provinces;" from an opinion they had conceived, that the word Province meant a conquered country. It is said in Show. Parl. c. 31. that Colony or Plantation does not import a conquest, but rather the contrary.

Colonies are of three sorts: The first, are those that serve to ease and discharge the inhabitants of a country, where the people are become too numerous; of this sort were the Colonies of the Goths and Vandals, that over-ran the southern parts of Europe. The second sort, are those established by victorious States, in the middle of vanquished nations, to keep them in awe and obedience: such were the bodies of men sent by the Romans into the conquered Provinces. And the third sort, are those established for the promotion of trade, called Colonies of Commerce; such are the Colonies established by Europeans in several parts of America.

Sir Walter Raleigh was the first that planted an English Colony in America, which he

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called Virginia, in honour of Queen Elizabeth.

Soon after the settlement of the British Colonies in America, King James the First wanted to make the superiority over them to be only of the King, and not of the Crown of England. Commons' Journal, 1620.—See also, Vaughan's Reports, 402.—It is said, that King James did this with a view to make the Colonies a source of revenue for himself and his successors, that they might not depend on the Parliament; but the Commons did not give up the matter, as appears by their Journals of 1624 and 1625.

The British Colonies are, in some respects, subject to the English laws. 1 Black. Com. 106.

It was holden by Lord Chief Justice Vaughan, in his Reports, 300. in the case of *Crew v. Ramsey*, that the English Plantations are dominions belonging to the realm of England, though not within the territorial dominion or realm of England, but follow it, and are a part of its royalty, and cannot be separated from it but by Act of Parliament. See also 22 Geo. III. c. 46. and Show. Parl. c. 32, 33.

And in Vaughan's Reports, 400. under title, *Process into Wales*, Lord Chief Justice Vaughan says, That the Colonies are of the dominions of England, and may be bound by laws made for them by an English Parliament.

Such was also the sense of the English nation, soon after the settlement of the Colonies, even in the times of republicanism; for the Long Parliament, after the death of King Charles the First, and when some of the Colonies had declared for King Charles the Second, against the then Commonwealth in England, passed an Act the 3d of October 1750; in which it is recited; "that in
" Virginia,

“ Virginia, and the Islands of Barbadoes, Antigua,
 “ Saint Christopher's, Nevis, Montserrat, Bermu-
 “ das, and divers other Islands and Places in
 “ America, there have been and are Colonies
 “ and Plantations which were planted at the cost,
 “ and settled by the people, and by the authority
 “ of this nation, which are and ought to be sub-
 “ ordinate to, and dependent upon, England;
 “ and have, ever since the planting thereof, been,
 “ and ought to be, subject to such laws, orders,
 “ and regulations as are or shall be made by the
 “ Parliament of England.” This Act having
 been made by the Long Parliament, when the
 King was unjustly kept from the throne, cannot
be cited as an authority; but it shews what the
 opinion of that Parliament was, with respect to
 the right of the Mother Country over the Co-
 lonies; and New England, at that time, took the
 part of the Long Parliament.

With respect to the jurisdiction which the su-
 perior courts in Westminster Hall have over
 the Colonies, I shall cite a few cases.

And in the first place, it is held by Lord Mans-
 field, “ That the court of King's Bench, in Eng-
 “ land, can send a Writ of *Habeas Corpus* to the
 “ Plantations, &c.” 2 Burr. 856. *Rex v. Cowle*.
 “ But notwithstanding the power which the court
 “ of King's Bench in England has, yet where they
 “ cannot judge of the cause, or give relief upon
 “ it, they would not think proper to interpose.
 “ Therefore upon imprisonments in the Planta-
 “ tions, &c. Lord Mansfield said, he had known
 “ complaints to the King in Council, and orders
 “ to bail or discharge; but he did not remember
 “ any application for a Writ of *Habeas Corpus*. Yet
 “ cases have formerly happened of persons illegally
 “ sent from hence, and detained there, where a

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“ Writ of *Habeas Corpus* out of the court of King’s
 “ Bench in England would be the most proper
 “ and effectual remedy.” Ibid.

“ Upon a proper Case, Writs not ministerially
 “ directed (sometimes called Prerogative Writs,
 “ because they are supposed to issue on the part of
 “ the King), such as Writs of *Mandamus*, Prohibition,
 “ *Habeas Corpus*, *Certiorari*, may issue to
 “ every dominion of the Crown of England.

“ There is no doubt as to the power of the
 “ Court of King’s Bench in England, where the
 “ place is under the subjection of the Crown of
 “ England: the only question is, as to the propriety.” Id. 855, 856.—See also 7 Co. Rep. 20. Calvin’s Case. Vaughan’s Rep. 290. 401, 402.

The respective Acts of Assembly, for establishing Courts of King’s Bench and Common Pleas, in the Islands of Saint Christopher and Nevis, expressly reserve the jurisdiction of the court of King’s Bench in England.

“ Nothing concerning the Seigniorship can be
 “ tried in the place where the Seigniorship is: and in
 “ the Proprietary Governments in America, they
 “ could not (before the Civil War there) try any
 “ question concerning the Seigniorship in their own
 “ Courts; but it must have been tried in some
 “ court in England.” By Lord Mansfield, in the case of *Fabrigas and Mostyn*: “ And whenever there is a question between two” (British) Provinces in America, it must be tried in England.

“ The Judges in the Courts of England do
 “ determine all cases that arise in the Plantations,
 “ &c. and they must inform themselves, by
 “ having the law stated to them. But there
 “ may be some cases abroad, which may not be
 “ fit to be tried here.” Id.

“ An

“ An action was brought in the King’s Bench
 “ in England, against Captain Gambier, for
 “ pulling down houses upon the coast of Nova
 “ Scotia in North America, and it was holden
 “ by Lord Mansfield that the action would lie,
 “ as the reparation here was personal, and for
 “ damages; otherwise there might be a failure
 “ of justice, for there were no regular Courts of
 “ Justice in that place; and if there had been
 “ any, yet Captain Gambier might never go
 “ there again; and the reason of locality in such
 “ an action in England, did not hold in that
 “ case.” Id. See also Show. Parl. c. 30.

“ A bill was brought in the High Court of
 “ Chancery in England for the delivery of the
 “ possession of a moiety of lands in Saint Chris-
 “ topher’s, and likewise for an account of the
 “ rents and profits. The defendant demurred
 “ to the first part, for that the Court of Chan-
 “ cery in England had no jurisdiction over lands
 “ in Saint Christopher’s; and likewise to the ac-
 “ count prayed of rents and profits; for that the
 “ plaintiffs had not set forth a clear title to
 “ them.”

Lord Chancellor Hardwicke. “ As to the
 “ first part of the demurrer, I apprehend it is
 “ very right, because the court has no jurisdic-
 “ tion, so as to put persons into possession, in a
 “ place where they have their own methods, on
 “ such occasions, to which the party may have
 “ recourse; the present bill therefore, is carry-
 “ ing the jurisdiction of this court further than
 “ it ever was before.

“ Lands in the Plantations, are no more under
 “ the jurisdiction of this court, than lands in
 “ Scotland, for it only *agit in personam*.

8 *Constitution of the BRITISH COLONIES*

“ The next question is, whether an account of rents and profits ought to be demanded before the plaintiff has established his right at law ?

“ No impediment is shewn to prevent the plaintiff from bringing his ejectment, for he claims a moiety as tenant in common.

“ As to the general equity, an infant here in England may bring a bill for an account of rents and profits against a person who keeps possession, after the death of the infant's ancestor ; and as the demurrer is only to the bill, I must take it for granted he is resident here in England.

“ The defendant should not have demurred for want of jurisdiction, for a demurrer is always in bar, and goes to the merits of the case ; and therefore it is informal and improper in that respect, for he should have pleaded to the jurisdiction.

“ The delivery of the possession, may be enforced in person, which was the old way ; but the writ of assistance to put persons in possession, as by way of injunction, is of more modern date.

“ Plantations were originally members of England, and governed by the laws of England ; and persons went out originally subject to the laws of England, unless in some regulations and customs, which they have a power of making.

“ There have been instances of Plantation Estates being sold in this court, and consequently, this court must have a power of enforcing a decree for a sale, upon the person ordered to convey.

“ His Lordship mentioned the case of the Widow in Pennsylvania, and Hamilton ; where there was an order upon Hamilton to deliver
“ possession.”

possession."—1 Athyn's, 543, 544. Roberdeau and Rous. See also Show. Parl. c. 33. And in the case of Foster v. Vassal. 3 Athyns, 589. it was said by Lord Chancellor Hardwicke, "It is certain where the provision is in England, let the cause of suit arise in the Plantations, if the bill be brought in England, as the defendant is here, the Court" (of Chancery in England) *agit in personam*, and may, by compulsion on the person, and process of the Court, compel him to do justice.

"Suppose different suits are brought there and here, what is to be done? I take it to be clear, if an action be brought in the Court of King's Bench, or Common Pleas, and the defendant pleads to it, an action in the Plantations they could not take any notice of, nor would it bar the jurisdiction of the Court here.

"The general rule of Courts of Equity, with regard to Pleas, is the same as in Courts of Law, but exercised with a liberal discretion.

"To be sure, two suits for the same matters in the Plantations and here, may be attended with inconvenience." And his Lordship said he would not, as Lord Cowper did in such a case, allow the plea to the discovery.

Sir William Blackstone says, the British Plantations are either such, where the lands are claimed by right of occupancy only, by finding them desert and uncultivated, and peopling them from the Mother Country; or where, when already cultivated, they have been gained by conquest, or ceded to us by treaties: and both these rights are founded upon the law of nature, or at least upon that of nations. 1 Black. Com. 107.—Show. Parl. c. 32. But there is a difference between these two species of Colonies; for it hath been held

held (Salk. 411. 666.—4 Mod. 222.) that if an uninhabited country be discovered and planted by English subjects, all the English laws then in being, which are the birthright of every subject, are immediately there in force. Show. Parl. c. 32.—2 P. Wms. 75. But this must be understood with very many, and very great restrictions. Such Colonists carry with them only so much of the English law as is applicable to their own situation, and the condition of an infant Colony; such, for instance, as the general rules of inheritance, and of protection from personal injuries. The artificial refinements and distinctions incident to the property of a great and commercial people; the laws of police and revenue (such especially as are enforced by penalties); the mode of maintenance for the established Clergy; the jurisdiction of Spiritual Courts, and a multitude of other provisions, are neither necessary nor convenient for them, and therefore are not in force. What shall be admitted, and what rejected; at what times, and under what restrictions; must, in cases of dispute, be decided, in the first instance, by their own provincial Judicature, subject to the revision of the King in Council; the whole of their Constitution being also liable to be new-modelled, and reformed, by the general superintending power of the Legislature in the Mother Country. 1 Black. Com. 107. Vaughan's Rep. 290. 402.—2 Lord Raymond, 1447, 1448, —2 P. Wms. 75.

But in conquered or ceded countries, that have already laws of their own, the King may indeed alter and change those laws; but till he does actually change them, the ancient laws of the country remain, unless such as are against the law of God; as in the case of an infidel country.

1 Black,

1 Black. Com. 107.—7 Rep. 17. Calvin's Case.— Shower's Parl. c. 31.—2 P. Wms. 75, 76. Trial of Fabrigas and Mostyn, 49. 58.

However, should Great Britain, either by conquest or cession, obtain possession of a country, in which the Government had been perfectly despotic; yet the Governor, or other Vicegerent of the Crown, is amenable for his conduct in the superior Courts of Common Law in Westminster Hall, if he acts unjustly or oppressively in his Government. For by Justice Gould, "Under such a Constitution in which we live, if there is a power that is not circumscribed by clear, positive, and precise rules, yet both natural justice and equity are the principles that ought to govern such a trust." Trial of Fabrigas and Mostyn, 49.

In Shower's Parliamentary Cases, 30, 31; in the case of Dutton v. Howell, and others, it was said by the counsel, *arguendo*, "Though a matter may justify a Governor for an act done in his Government, which would not justify him for the same act done in England; yet the Governor must shew that he hath pursued the rules of law in that place; or, in case of no positive laws, the rules of natural justice; for either the common law, or new instituted laws, or natural equity, must be the rule in those places."

And if any country in which torture and banishment are the law, should come into the possession of Great Britain, these punishments fall of course; the Constitution of Great Britain puts an end to them. By Lord Justice de Grey, in the Trial of Fabrigas and Mostyn, 60.

The British American Plantations are principally conquered or ceded countries, having been obtained

obtained in the last century either by right of conquest, or driving out the natives (with what natural justice I shall not at present enquire), or by treaties: and therefore the common law of England, as such, has no allowance or authority there, they being no part of the Mother Country, but distinct (though dependent) dominions. They are subject, however, to the control of Parliament, though not bound by any Acts of Parliament, unless particularly named. 1 Black. Com. 108.—2 P. Wms. 75.

The English Puritans who first settled in New England, notwithstanding they were furnished with a charter from their Sovereign, purchased of the Indians the land they resolved to cultivate. And this laudable example was followed by Mr. William Penn, who planted the Colony of Quakers in Pennsylvania. Vattel's Law of Nations, 91.—*Histoire et Commerce des Colonies Angloises*, &c. 117, 118, 119.

Other cessions have been obtained from the Indians with the greatest fairness; particularly that made in Georgia in the year 1774, when a Congress was held by Sir James Wright, Bart. Governor of Georgia, with a great number of the Kings and Headmen of the Creek and Cherokee nations; at which time these two nations ceded to the King of Great Britain several millions of acres of valuable land, in the most fertile and wholesome part of the country, for the payment of the debts which they owed the Indian traders: but the breaking out of the Civil War prevented that cession from producing the effects which were intended by it.

Vattel, in the place above mentioned, says,
 “ That when a nation takes possession of a distant
 “ country, and settles a Colony there, that coun-
 † “ try,

“ try, though separated from the principal Estab-
 “ lishment, or Mother Country, naturally be-
 “ comes a part of the State, equally with its an-
 “ cient possessions. Whenever, therefore, the
 “ political laws or treaties make no distinction
 “ between them, every thing said of the territory
 “ of a nation ought also to extend to its Colo-
 “ nies.” But this is not agreeable to the genius
 of the British Constitution. For in the passage
 above cited from Sir William Blackstone’s Com-
 mentaries, it is said, That the British American
 Plantations are not part of the Mother Country,
 but distinct (though dependent) dominions; and
 that they are not bound by the acts of the British
 Parliament, unless particularly named. See also
 Vaughan’s Rep. 300. 400.—2 P. Wms. 75.

And Vattel seems to be ~~clearly~~ mistaken, with
 respect to nations in general that have Colonies
 in a distant country, where he says, that “ When-
 “ ever treaties make no distinction between the
 “ Mother Country and the Colonies, every thing
 “ said of the territory of a nation, ought also to
 “ extend to its Colonies.” For a treaty permit-
 ting a nation, in general words, to trade with
 the Mother Country, does not permit that nation
 to trade to its Colonies. For it is acknowledged,
 That a commerce established between the Mo-
 ther Countries, does not include a permission
 to trade in the Colonies, because these always
 continue in a state of prohibition; it being a
 fundamental law of Europe, that all commerce
 with a foreign Colony shall be regarded as a
 mere monopoly, punishable by the laws of the
 country. Spirit of Laws, Book 21. c. 17.

Before the Civil War in America, the British
 Colonies there were (with respect to their interior
 polity) divided by Sir William Blackstone into
 three

three sorts: 1. Provincial Establishments (commonly called King's Governments). 2. Proprietary Governments. 3. Charter Governments.

1. In the Provincial Establishments, their constitution depended on the respective commissions issued by the Crown to the Governors, and the instructions which usually accompanied these commissions; under the authority of which Provincial Assemblies were constituted, with the power of making local ordinances, not repugnant to the laws of England. 1 Black. Com. 108. And see the form of a Governor's Commission; chap. 4. *post. Page - 150.*

But it was usual for the General Assembly, in a new settled or ceded Colony, soon after they were first convened by the Governor, to pass an act for dividing the Colony into counties, districts, or other arbitrary divisions—to direct how many Representatives each district should send to the General Assembly—to regulate the mode of electing them, and to ascertain the qualifications of the Electors and Representatives: And in many Colonies the duration of the House of Representatives was limited; but in some of them, it continued until the Governor thought proper to dissolve the General Assembly.

In an island in the West Indies, where the House of Representatives continued until the Governor thought proper to dissolve the General Assembly, I once was retained by a candidate, to attend at an election, as counsel on his behalf. The Governor of the Island, and several of the Council, attended at the election, and offered to give their votes for the candidate that opposed my client. I objected, with some warmth, at the Governor's attempting to vote at the election of Representatives to the Assembly, as it was unconsti-

unconstitutional, and tended to influence elections: and I also opposed the receiving the votes of the Members of the Council, as it was inconsistent for those to vote for Representatives, who had themselves voices in the Legislature. But the Returning Officer (who was a gentleman of good character, and desirous to do what was right) seemed unwilling to take on himself the decision of the matter; and proposed to receive the votes of the Governor and Council, leaving the House of Assembly to decide on the validity of those votes. This proposal was acquiesced in; and the question afterwards came on before the House of Assembly, when I urged every objection that occurred to me, against the votes of the Governor and Council; and the House resolved, "That the Governor had no right to vote at the election of Representatives to the General Assembly," or to that effect; but they admitted the votes of the Members of the Council. However I afterwards heard it said, that the Governor gave the Members of the Assembly an intimation, that if the resolution against his vote stood on their Journals, he would dissolve them. And thereupon they razed the resolutions from their Journals, to avoid the expence of a new election, as it is supposed. But the intimation of the Governor to the Assembly, and the rasure of the resolution from their Journal, being only matters of common fame in the Island, I am not answerable for the authenticity of them; and I do not chuse to assert any thing positively, that I am not clear in.

I was afterwards a Member of the Assembly in another Island; where, on a petition to the House, it was carried by the majority, after a long and warm debate, that the Members of the Council had no right to vote at the election of Assembly-men.

bly-men. And on the Continent of America, they never attempted it in my time.

Before I enumerate the Provincial Establishments, or King's Governments, it may be proper to observe, that all the British Colonies (except Falkland's Islands, which have been deserted, as of no consequence) are in North America: but as it is customary to distinguish the Colonies without the tropic of Cancer by the name of North America, and the Colonies between that tropic and the equinoctial by the name of the West Indies, I shall comply with that distinction. See 18 Geo. III. c. 12. f. 1.—22 Geo. III. c. 75.

Before the Civil War in America, the Provincial Establishments, or King's Governments there, were Canada, or Quebec (the boundaries of which were established by the 14 Geo. III. c. 83. but great part of that Province hath been lately ceded to the United States of America); the Government of St. John's in the Gulf of St. Lawrence (containing the Island of St. John, &c.); the Government of Newfoundland, which is partly insular, and partly continental (containing the Island of Newfoundland, and that part of the continent which lies between the river St. John and Hudson's Streights, with several Islands on that coast), Nova Scotia, or New Scotland, New Hampshire, New York, New Jersey or the Jerseys, Virginia, North Carolina, South Carolina, Georgia, East Florida and West Florida, the Government of the Bermuda or Summer Islands, and the Government of the Lucaya or Bahama Islands: but New Hampshire, New York, New Jersey, Virginia, North Carolina, South Carolina, and Georgia, are acknowledged by Great Britain to be Independent States; and East and West Florida are ceded to Spain. The Bahama Islands were

were captured by the Spaniards in the last War, but are now restored to Great Britain, by the Preliminary Articles of 1783, between Great Britain and Spain.

At the beginning of the last War, the Provincial Establishments in the West Indies were, the Island of Barbadoes, the Government of the Southern Charribbee Islands, (which comprehended Grenada, and the Grenadines, and Tobago,) St. Vincent's, Dominica, the Government of the Leeward Charribbee Islands, (which comprehended Antigua, Montserrat, Nevis, St. Christopher's, Barbuda, Anguilla, Tortola, Spanish Town, and many small Islands near Tortola, being part of that cluster called the Virgin Islands) and Jamaica.

There was also a small settlement of English at the Musquito shore, on the Continent, over which a King's Agent presided, who was appointed by the Governor of Jamaica: and many British subjects were settled in the Bay of Honduras, where they were permitted to cut logwood and mahogany, &c. in consequence of the treaty of Paris between Great Britain and Spain. They had a considerable town at St. George's Key in the Bay, where much trade was carried on, until the Spaniards drove away all the British settlers in the last war. Three of the principal merchants from the Bay of Honduras, that had been carried prisoners to the Havannah, arrived in Charlestown Road in a flag of truce, in the Summer of 1782, and went from thence to New York with me, in one of the King's transports. Those merchants gave me a particular account of the settlements at the Musquito shore and the Bay of Honduras, and represented their commerce as very beneficial to Great Britain, until the Spaniards broke

those settlements in the last war. The Musquito shore was afterwards retaken by an armament sent from Jamaica: and the Preliminary Articles of 1783, between Great Britain and Spain, have made no express provision respecting it; but the 6th Article stipulates, "That all the countries and
 " and territories which may have been, or may
 " be, conquered in any part of the world whatsoever, by the arms of his Britannic Majesty,
 " or by those of his Catholic Majesty, and which
 " are not included in the present articles, shall
 " be restored without difficulty, and without requiring compensations." Now, as the Musquito shore was always claimed by Spain, and the British settlement there was neither acknowledged by Spain, nor openly avowed by Great Britain in times of peace, I apprehend the Musquito shore will be restored to his Catholic Majesty. With respect to the Bay of Honduras, the Preliminary Articles say nothing of it by name; but the 4th Article stipulates, "That his Catholic Majesty
 " shall not, for the future, suffer the subjects of
 " his Britannic Majesty, or their workmen, to
 " be disturbed or molested, under any pretence
 " whatsoever, in their occupation of cutting,
 " loading, and carrying away logwood, in a district, of which the boundaries shall be fixed
 " by the definitive treaty, or within six months
 " after the ratification, &c. But this stipulation
 " is not to derogate from the rights of sovereignty
 " of the King of Spain."

In the last war Grenada and the Grenadines, Tobago, St. Vincent's, Dominica, Montserrat, Nevis, and St. Christopher's, were captured by the French; but all of them were restored to Great Britain on the late peace, except Tobago, which was ceded to France:

By

By the commissions to the Governors of Grenada and St. Vincent's, which have been made out since the late peace, a new arrangement has taken place with respect to the Grenadines: for General Matthews's commission includes Grenada and all the Grenadines, to the southward of the Island of Carriacou, inclusive of that Island. And Governor Lincoln's commission comprehends St. Vincent's, Bequia, and all the Grenadines, to the northward of Carriacou.—I now come to

2. Proprietary Governments, granted out by the Crown to individuals, in the nature of feudatory principalities, with all the inferior regalities, and subordinate powers of Legislation which formerly belonged to the owners of counties palatine: yet still with these express conditions, that the end for which the grant was made be substantially pursued; and that nothing be attempted, which may derogate from the sovereignty of the Mother Country. 1 Black. Com. 108.

Many of the Colonies which are contained in the above enumeration of Provincial Establishments, or King's Governments, were formerly Proprietary Governments; but all the Proprietary Governments which remained at the breaking out of the Civil War, were the Government at the Hudson's Bay, called New Britain, the Province of Pennsylvania, the three Counties of Newcastle, Kent, and Suffex, on Delaware (now called the Delaware State) and Maryland.

The country called New Britain, was granted to the Hudson's Bay Company, by a charter of King Charles II. of the 2d of May 1670, in the 22d year of his reign (which was confirmed by an act of Parliament made in the year 1690). The charter gives that Company an exclusive trade to all that country which lies round Hud-
son's

son's Bay: but I apprehend, that since 6 Ann. c. 37. (s. 15.) no charter can be granted to exclude or restrain any subject from a full and free trade to America. I have ranked the country called New Britain under this title of Proprietary Governments (in preference to that of Charter Governments), because the trade is carried on solely for the benefit of the proprietors in England; and all the British subjects that reside at Hudson's Bay, or trade to that country, are servants to the Hudson's Bay Company.

The Pennsylvania Charter was granted to William Penn, by King Charles II. in the 14th year of his reign, which was 1681-2: and the Charter of Maryland was granted to Lord Baltimore, by King Charles I. in the 8th year of his reign, which was 1632.

By the Charters, the proprietors had a right of appointing Governors; but by statute 7 & 8 Wil. III. c. 22. s. 16. it was enacted, "That all
 " Governors nominated and appointed by any
 " persons or proprietors who should be entitled
 " to make such nomination, should be allowed
 " and approved of by his Majesty, his heirs or
 " successors; and should take the oaths appointed by that, or any other act to be taken,
 " by the Governors or Commanders in Chief,
 " in other his Majesty's Colonies or Plantations,
 " before their entering upon their respective Governments, under the like penalties as his Majesty's Governors and Commanders in Chief
 " were, by the said acts, liable to."

Pennsylvania, Delaware, and Maryland, are now acknowledged by Great Britain to be Independent States.—I come, lastly, to

3. Charter Governments; in the nature of civil Corporations, with the power of making bye-laws

laws for their own interior regulation, not contrary to the laws of England, and with such rights and authorities as are specially given them in their several Charters of Incorporation. 1 Black. Com. 108.

The only Charter Governments that remained at the breaking out of the Civil War in America, were the Colonies of the Massachusetts Bay, Rhode Island and Providence Plantations, and Connecticut.

The first Charter of the Massachusetts Bay was granted by King James I. in the 18th year of his reign, and the people were thereby empowered to chuse all their own Officers, except those of the Admiralty and Customs: but that Charter was created by a judgment in Chancery, in the year 1684. However, in the 3d year of King William and Queen Mary, the people of the Massachusetts Bay obtained another Charter, which reserved to the Crown the appointment of the Governor, Lieutenant Governor, Secretary, the Officers of the Admiralty, and the Officers of the Customs. The Governor, with the consent of the Council, appointed the Judges, Commissioners of Oyer and Terminer, Sheriffs, Provost Marshals, Justices of the Peace, and the Officers belonging to the Council and Courts of Justice. The appointment of the other Civil Officers was vested in the Council and Assembly, independent of the Governor. The Freeholders elected an House of Representatives, and that House chose a Speaker and Council, which was also the Upper House of Legislature. The Governor, the Council, and the House of Representatives, constituted the General Court; which was, in the first place, the Legislature of the Colony; secondly, a Court of Equity; and, thirdly, a Court of Appeals (or

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Errors)

Errors) from Judgments given in the other Courts. See Hutchinson's and Chalmers's Histories of the Massachusetts Bay, and Political Reflections on the late Colonial Governments.

The Charter of Rhode Island, and Providence Plantations, was granted them by King Charles II. in the 15th year of his reign, which was 1663: and the Charter of Connecticut was granted them by King Charles II. in the 14th year of his reign, which was 1662. The respective Charters of these Colonies, empowered the people to elect all their Officers, except those of the Admiralty and Customs: and before the Civil War, the General Court in each of these Colonies, had the same powers within their respective Governments, as the General Court in the Massachusetts Bay had there. But all these Charter Governments are now acknowledged by Great Britain to be Independent States.

It is said, that the first Charter granted by the Crown of England, for the purpose of Colonization, was that granted by King James I. to the two Virginia Companies, bearing date the 10th of April 1606: and that the Charters which preceded it, were granted for the purpose of discovery only.

Before the Civil War in America, the form of Government in most of the Colonies was borrowed from that of England. 1 Black. Com. 108. And the commissions to the King's Governors expressly provided, "That all laws, statutes, and ordinances in the Colonies, were not to be repugnant to, but as near as might be agreeable to the laws and statutes of the kingdom of Great Britain." The form of those commissions still continues to be the same, with respect to

to such Colonies as yet remain to Great Britain.

The Colony Charters also directed, " That the
" bye-laws, constitutions, orders and ordinances,
" pains and penalties there, should be reasonable,
" and not contrary or repugnant to the laws and
" statutes of the realm."

In the Provincial Establishments, or King's Governments, the Governor was always named by the King; and that is still the case, with respect to such Colonies as remain to Great Britain; for the Governor is the King's Representative, or Deputy. 1 Black. Com. 108.

But I have already observed, that before the Civil War, the Governor in a Proprietary Government, was named by the Proprietor, subject to the restrictions contained in 7 and 8 Wil. III. c. 22. s. 16.

That in the Massachusetts Bay, the Governor, Lieutenant Governor, Secretary, Officers of the Admiralty, and Officers of the Customs, were named by the Crown.

And that in the other two Charter Colonies, all the Officers, except those of the Admiralty and Customs, were chosen by the people.

The Officers in the Provincial Establishments, or King's Governments, were originally appointed by the King, or his Representative the Governor.

When a vacancy happened, the Governor was empowered to fill it up; and his appointment stood until the King thought proper to supercede it. But see more on this head, under title Governor, *post*.

However, in Virginia, South Carolina, and some other Colonies, Acts of Assembly have from time to time been assented to, which appoi

men to executive Offices; and those innovations in the Constitution passed *sub silentio* at the Boards in England, at times when little attention was paid to Colony matters.

By the 22 Geo. III. c. 75. it is enacted, “ That
 “ from thenceforth no office to be exercised in
 “ any Colony or Plantation, then, or at any time
 “ thereafter, belonging to the Crown of Great
 “ Britain, shall be granted longer than for such
 “ time as the grantee, or person appointed, shall
 “ discharge the duty thereof in person, and be-
 “ have well therein. And in case he shall be
 “ wilfully absent, without a reasonable cause, to
 “ be allowed by the Governor and Council, they
 “ may remove him from his office; but if he
 “ thinks himself aggrieved by such amotion, he
 “ may appeal to his Majesty in Council, where
 “ such amotion shall be finally judged of, and
 “ determined: but the Governor and Council
 “ may give such leave of absence, as they shall
 “ see occasion; and in case of leave of absence,
 “ or vacancy by death, or amotion, they are to
 “ provide for the due discharge of the duties of
 “ the office, until the King’s pleasure shall be
 “ known: but nothing in that act shall operate
 “ to the prejudice of any subsisting grant of an
 “ office, or to prevent an office being granted,
 “ determinable at pleasure.”

The Colonies have also Courts of Justice of their own; some of which sit by authority of letters patent, issued by the Governor on the first settlement of the Colony; and others under Act of Assembly, which establishes the style of the Court, its jurisdiction, and mode of proceeding.

The style of those courts, and the extent of their jurisdiction were different in different Colonies,

nies. In some it was called the General Court, or Supreme Court of Judicature, and had the same powers within the Colony, that the King's Bench, Common Pleas, and Exchequer, have in England. In other Colonies, they had a Court styled the King's Bench and Common Pleas, which exercised civil and criminal jurisdiction: and there are a third sort of Colonies in the West Indies, in which Pleas of the Crown are cognizable by a Grand Sessions (or King's Bench and Grand Sessions), and civil matters by a distinct Court called the Common Pleas. In several of the Colonies on the Continent, before the Civil War, they had a Court in each county or district, that decided questions of property to a considerable amount; but there was an appeal to the superior Court, which also decided matters in the first instance, that exceeded the jurisdiction of the County Courts. By means of those County Courts, they had a great number of Judges in such Colonies, who were, in general, unacquainted with the law; and little decorum was observed in the Courts where they presided. But in the Colonies, where they had no County Courts, and the Judges of the superior Court went in circuit throughout the Province, justice was more impartially administered, and greater decorum was observed, than in those Colonies where the County Courts were established: for four or five gentlemen might be found, who were skilled in the law, and capable of executing a judicial office when it was impossible to meet with an hundred in any Province, who were qualified to exercise the powers of judicature: nor could a Colony raise salaries for a number of able lawyers, to induce them to quit a lucrative practice at the bar,

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bar, in order to go on the bench; whereas the raising competent salaries for four or five Judges, was no great burden on any country, when it was considered what benefits the Public derived from the services of men of learning and integrity. Besides, whenever there is in any country a number of courts independent of each other, the rule of decision is not uniform, and where there are many Judges in a Colony, scarce any question can come on, but some of them are interested in the decision as friends or relations to one of the parties. In an Island in the West Indies, where the King's Bench and Grand Sessions was composed of the Lieutenant Governor, Members of the Council, Judges of the Common Pleas, the Barons of the Exchequer, and the Justices of the Peace, I think I have seen instances of partiality. But the reader will meet with more observations of this sort, in the following parts of this work.

From the decrees of the Courts of Chancery in the Colonies, an appeal lies to the King in Council here in England.

And from the judgments of the Courts of Common Law, in the Colonies, a Writ of Error lies to the Governor and Council of the Colony; and from their decision, an appeal (in the nature of a Writ of Error) lies to the King in Council here in England.

“ On an appeal to the King in Council from the Plantations, the proceedings must be transmitted, and the party appealing must proceed within a year after the appeal is allowed in the Plantations.” 2 Lord Raymond, 1447.

“ But a cause cannot be transmitted for difficulty, but must be determined one way or other.” Id. 1448.

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" A Writ of Error lies to reverse a judgment
" in any dominions belonging to England."
Vaughan's Rep. 290. 402. Show. Parl. c. 33.

For which the reasons are, 1st, That without
such Writ, the law appointed, or permitted, to
such inferior dominion, might be insensibly
changed within itself, without the assent of the
dominion superior.

2dly. Judgments might be then given to the
disadvantage or lessening of the superiority,
which cannot be reasonable; or to make the su-
periority to be only of the King, not of the Crown
of England. Vaughan's Rep. 402. Show. Parl.
c. 33.

3. The General Assemblies in the Colonies, which
are their House of Commons, together with their
Council of State, being their Upper House, with
the concurrence of the King, or his representative
the Governor, make laws suited to their own
emergencies. 1 Black. Com. 108.

But it has been already observed, that the
commissions to the Governors, and also the Co-
lony Charters expressly provided, " that those
" laws were not to be repugnant, but as near
" as might be agreeable to the laws and statutes
" of Great Britain."

It was also particularly declared by statute 7
& 8. W. III. c. 22. " That all laws, bye-laws,
" usages, and customs, which should be in prac-
" tice in any of the Plantations, repugnant to
" any law made or to be made in this king-
" dom, relative to the said Plantations, should
" be utterly void, and of none effect."

In all the Provincial Establishments or King's
Governments, except Virginia, the style of the
legislature, before the Civil War, was, " the Go-
" vernor, Council, and Assembly," (or " Ge-
" neral

“neral Assembly”) and in some of them, the House of Representatives was called “the Commons House of Assembly.” But the style of the legislature in Virginia was, “the Governor, Council, and Burgeffes in General Assembly,” and the Province itself was called, “The Colony and Dominion of Virginia.” However the reader will see the style of the different legislatures in the Colonies, in a subsequent part of this work. Before the Civil War in America, the Houses of Representatives would not consent to any law, in which the Council was styled the Upper House of Assembly, and therefore in every Act of Assembly they were called “Council,” although in their own Journals, they were styled, “Upper House of Assembly;” but after the reduction of Georgia by the King’s forces in 1779, the Commons House of Assembly there were struck with the propriety of distinguishing when the Council acted as an executive body, or Council of State to assist the Governor; and when they formed a House of Legislature. And in most of the Acts of Assembly that passed in Georgia, between the reduction of it in 1779, and the evacuation in 1782, the Council was styled the Upper House of Assembly.

On the passing the Act of the 5 Geo. III. c. 12. “For granting and applying certain Stamp Duties, &c. in the British Colonies and Plantations in America,” (which Act was repealed by 6 Geo. III. c. 11.) several of the Colonies claimed the sole and exclusive right of imposing taxes upon themselves: whereupon the statute 6 Geo. III. c. 12. was made, which expressly declares, “That all his Majesty’s Colonies and Plantations in America, have been, and are, and of right ought to be, dependent upon the
“ Imperial

“ Imperial Crown and Parliament of Great Britain; who have full power and authority to make laws and statutes of sufficient validity to bind the Colonies and people of America, subjects of the Crown of Great Britain, in all casts whatsoever.” But by 18 Geo. III. c. 12. s. 1. “ The King and Parliament of Great Britain declare, that from thenceforth they will not impose any duty, tax, &c. payable in any of the King’s Colonies, Provinces, and Plantations in North America or the West Indies, except for the regulation of commerce: the produce whereof is always to be applied to the use of the Colony in which it is levied, &c.”

The authority of the Mother Country over the Colonies was also exemplified by 7 Geo. III. c. 59. for suspending the legislation of New York—14 Geo. III. c. 19. for suspending the trade of the harbour of Bolton—14 Geo. III. c. 39. for suppressing riots in the Massachusetts Bay—14 Geo. III. c. 45. for regulating the government of the Massachusetts Bay (by which Act its Charter was made void)—14 Geo. III. c. 54. for providing quarters for the King’s troops in North America—15 Geo. III. c. 10. 18. to restrain the trade of the twelve Colonies, from New Hampshire to South Carolina inclusive—16 Geo. III. c. 5. to prohibit all trade and intercourse with the Thirteen Colonies, from New Hampshire to Georgia inclusive, during the rebellion—17 Geo. III. c. 7. to enable the Admiralty to grant commissions to privateers, to make prize of the ships and cargoes of the said Thirteen Colonies, and of those that traded with them—17 Geo. III. c. 9. 18 Geo. III. c. 1. 19 Geo. III. c. 1. 20 Geo. III. c. 5. 21 Geo. III. c. 2.

22 Geo. III. c. 1. to empower the King to detain persons charged with, or suspected of high treason in America, or on the high seas, or for piracy—20 Geo. III. c. 46. s. 10. to indemnify the Commanders in Chief in America, and all persons acting under them, for all acts done in suppressing the rebellion there.

But some of these statutes were repealed, and the rest are become obsolete, since Great Britain has acknowledged the Independency of the Thirteen United States of America.

I have already observed, that Sir William Blackstone, in his Commentaries, says, “That
“ the British American Plantations are principally conquered or ceded countries; and
“ therefore the common law of England, as
“ such, has no allowance or authority there.” However, the Crown has from time to time established the common law of England in all the British American Plantations, except Quebec or Canada. That province was ceded to Great Britain by the treaty of Paris, concluded the 10th of February 1763; and at the time of the cession, Canada contained above sixty-five thousand inhabitants, who were of the church of Rome, and had always been governed by the customs of Paris. It was therefore both just and prudent, to indulge the inhabitants with the exercise of their religion (subject to the King’s supremacy), and to make the laws of the country the rule of decision there, in all matters of controversy relative to property and civil rights. But the constitution of Great Britain would not permit the criminal laws of a despotic government (which were enforced without the intervention of a jury) to continue in any of its plantations: and therefore the statute 14 Geo. III. c. 83. was made, which
(after

(after establishing the boundaries of Quebec)
 “ provides for the government of that Province—
 “ permits to the inhabitants the exercise of the
 “ Romish religion (subject to the King’s supre-
 “ macy)—makes the laws of Canada the rule of
 “ decision there, in all matters of controversy
 “ relative to property and civil rights; but esta-
 “ blishes the criminal law of England in that
 “ province.” They have no House of Repre-
 sentatives in Canada: however, the abovementioned Act “ empowers the Governor and le-
 “ gislative Council to make laws;” (which the
 Act calls Ordinances) but they cannot lay a tax on
 the Province: the power of doing that resides
 solely in the British Parliament, except that the
 legislative Council may empower the inhabitants
 of any town or district in the Province, to levy
 and apply rates and taxes for the purpose of
 making roads, and erecting and repairing public
 buildings, or for any other purposes respecting
 the local convenience and œconomy of such town
 or district.

By the 14 Geo. III. c. 88. “ Certain duties
 “ which were imposed by the French King in
 “ Canada, are discontinued, and other duties, in
 “ lieu of them, are established by the British
 “ Parliament in that Province, to defray the
 “ charges of the administration of justice, and
 “ the support of the civil Government there.”
 I have already observed, that great part of Que-
 bec or Canada hath been ceded to the United
 States of America, as will appear by consulting
 Faden’s Map, lately published.

C H A P. II.

Of the Regulations to which the Commerce of the British American Colonies was subjected before the Civil War broke out there—With such Alterations as have taken place since that Time, down to the present Period.

I HAVE already observed, in the preceding Chapter, that the Colonies in America, which belong to different nations in Europe, were established for the promotion of trade, and are called Colonies of Commerce.

“ The Colonies formed by the Europeans in America, are (according to Montesquieu) under a kind of dependence, of which there is scarcely an instance in all the Colonies of the ancients, whether we consider them as holding of the State itself, or of some trading Company established in the State.” Spirit of Laws, b. xxi. c. 17.

“ The design of those Colonies, is to trade on more advantageous conditions than could otherwise be done with the neighbouring people, with whom all advantages are reciprocal. It has been established, that the Mother Country alone shall trade in the Colonies, and that from very good reason, because the design of the settlement, was the extension of commerce, and not the foundation of a city, or of a new empire.” Ibid.

“ Thus it is still a fundamental law of Europe, that all commerce with a foreign Colony shall be regarded as a mere monopoly, punishable by the laws of the country. And in this case, we are not to be directed by the laws and pre-
cedents

“cedents of the ancients, which are not applicable. It is likewise acknowledged, that a commerce established between the Mother Countries, does not include a permission to trade in the Colonies, for these always continue in a state of prohibition.” Ibid.

“The disadvantage of a Colony, that loses the liberty of commerce, is visibly compensated by the protection of the Mother Country, who defends it by her arms, and supports it by her laws.” Ibid.

“From hence follows a third law of Europe, that when a foreign commerce with a Colony is prohibited, it is not lawful to trade in its seas, except in such cases as are excepted by treaty.” Ibid.

“Nations who are, with respect to the whole universe, what individuals are in a State, like these are governed by the law of nature, and by particular laws of their own making. One nation may resign to another the sea, as well as the land.” Ibid.

Mr. Selden, in his *Mare Clausum*, has proved, that the sea is capable of occupancy and dominion, naturally, as well as the land.” Vaughan’s Rep. 188.

By statute 4 Geo. III. c. 15. s. 33, 34. “Foreign vessels found at anchor, or hovering within two leagues of the shore of any British American dominion, and not departing, unless distressed, in forty-eight hours after notice, were liable to be forfeited, together with the goods, except French vessels fishing on the coast of Newfoundland, between the limits permitted by treaty.” See also, s. 35. to prevent British vessels from trading with the French at Saint Pierre’s and Miquelon.

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“ The great distance of our Colonies, is not
 “ an inconvenience that affects their safety, for
 “ if the Mother Country, on whom they depend
 “ for their defence, is far distant, no less distant
 “ are those nations by whom they may be afraid
 “ of being conquered.” Spirit of Laws, b. xxi.
 c. 17.

But this observation does not hold true, since
 the Thirteen United States of America are ac-
 knowledged to be independent; for they are
 much nearer to the American Colonies, belong-
 ing to the different European powers, than the
 respective nations are, on whom those Colonies
 depend. “ Besides this distance is the cause
 “ that those who are established there, cannot
 “ conform to the manner of living in a climate
 “ so different from their own. They are obliged
 “ therefore, to draw from the Mother Country
 “ all the conveniences of life. Our Colonies in
 “ the Charribbee Islands, are under an admirable
 “ regulation in this respect; the subject of their
 “ commerce is, what we neither have, nor can
 “ produce, and they want what is the subject of
 “ ours.” Spirit of Laws, b. xxi. c. 17.

The Dutch formerly carried on a considerable
 trade to the British American Colonies, until
 they were excluded by the Long Parliament, of
 which Sir William Blackstone gives the follow-
 ing account :

“ The most beneficial statute for the trade and
 “ commerce of these kingdoms is the Naviga-
 “ tion Act, the rudiments of which were first
 “ framed in 1650,” (Scobell, 132.) “ with a nar-
 “ row partial view, being intended to mortify
 “ our own sugar islands, which were disaffected
 “ to the Parliament, and still held out for Charles
 “ the Second, by stopping the gainful trade which
 † “ they

“ they then carried on with the Dutch,” (Mod. Un. Hist. 41. 289.) “ and at the same to clip the wings of those our opulent and aspiring neighbours. This prohibited all ships of foreign nations from trading with any English Plantations, without licence from the Council of State. In 1651,” (Scobell, 176.) “ the prohibition was extended also to the Mother Country; and no goods were suffered to be imported into England, or any of its dependencies, in any other than English bottoms, or in the ships of that European nation, of which the merchandise imported was the genuine growth or manufacture. At the Restoration, the former provisions were continued, by statute 12 Car. II. c. 18. with this very material improvement, that the master, and three-fourths of the mariners, shall also be English subjects.”
1 Black. Com. 418. 419.

But in time of war, it has been usual to pass an Act of Parliament, to permit British Merchant vessels to be navigated by three-fourths foreign seamen. See 21 Geo. III. c. 11. which is the last act of that sort.

The statute 15 Car. II. c. 7. After reciting,
“ That his Majesty’s Plantations beyond the seas,
“ are inhabited and peopled by his subjects of
“ this his kingdom of England, for the main-
“ taining a greater correspondence and kindness
“ between them, and keeping them in a firmer
“ dependence upon the Mother Country; and
“ rendering them yet more beneficial and advantageous to it, in the further employment and
“ increase of English Shipping and Seamen; vent
“ of English woollen, and other manufactures and
“ commodities; rendering the navigation to and
“ from the same more safe and cheap; and
D 2 “ making

“making this kingdom a staple not only of the
 “commodities of those Plantations, but also of
 “the commodities of other countries and places,
 “for the supplying of them; and it being the
 “usage of other nations to keep their Plantation
 “Trade to themselves: It enacts, That no com-
 “modity of the growth, production, or manu-
 “facture of Europe, shall be imported into any
 “Land, Island, Plantation, Colony, Territory,
 “or Place to his Majesty belonging, but what
 “shall be shipped in England, Wales, or Ber-
 “wick, and in English-built shipping, whereof
 “the master and three-fourths of the mariners,
 “at least, to be English, under the forfeiture of
 “ship and cargo.”

By the 7 and 8 W. III. c. 22. s. 2. “No goods
 “or merchandise shall be imported into, or ex-
 “ported out of, any Colony, or Plantation, but in
 “ships built in England, Ireland, or the Colo-
 “nies,” (except prize ships legally condemned,
 20 Geo. II. c. 45. s. 9.) “and wholly owned by
 “the people thereof, or any of them, under for-
 “feiture of ship and goods.” And see s. 17. for
 registering all ships trading there. But by the
 13 Geo. III. c. 26. “A foreigner may purchase
 “a share in a British ship, with the consent in
 “writing of the owners of three-fourth parts in
 “value, at least, indorsed on the certificate of
 “the register before two witnesses, otherwise the
 “contract, &c. to be void.”

By the 15 Geo. II. c. 31. s. 1. “No ship or
 “vessel required (by 7 and 8 W. III. c. 22. and
 “5 Ann. c. 8.) to be registered, and carrying
 “goods, &c. to or from any of his Majesty’s
 “Plantations in America, or to or from one
 “Plantation to another, shall be permitted to
 “trade, or be deemed qualified for that purpose,
 “within

* within the intent of the said Acts, until the
 “ master or person having charge of the said ship
 “ or vessel, shall upon oath (or in case of
 “ a Quaker, upon affirmation) before the Go-
 “ vernor or Collector of the Customs, where the
 “ same shall arrive, give a just and true account
 “ of the name and burthen thereof, and of the
 “ place from whence she came, and of the other
 “ particulars, according to the form of the oath
 “ set forth in the Act, under the forfeitures in
 “ the said Act mentioned.” But,

By 3 and 4 Ann. c. 8. 13 Geo. I. c. 5. 3 Geo.
 II. c. 12. 4 Geo. III. c. 15 and 19. 9 Geo. III.
 c. 28. “ Horses, victuals, and linen cloth from
 “ Ireland; salt from any part of Europe; wines
 “ of the growth of Madeira, and of any of the
 “ Western Islands; and goods necessary for the
 “ fishery from Jersey or Guernsey, may be im-
 “ ported directly into the British Colonies in
 “ America.” And,

By the Act of Union, 5 Ann. c. 8. Article 4.
 “ All the subjects of the united kingdom of Great
 “ Britain, shall have full freedom and intercourse
 “ of trade and navigation to and from any part or
 “ place within the said united kingdom, and the
 “ dominions and plantations thereunto belong-
 “ ing.” Also,

By the 20 Geo. III. c. 10. “ Any goods which
 “ may be imported from British America, &c.
 “ to Great Britain, may be imported directly to
 “ Ireland, and exported from thence, if the Irish
 “ Parliament imposes the same duties as are paid
 “ in Great Britain.”

Some American produce was permitted to be
 carried directly to a foreign market, without be-
 ing first brought to Great Britain,

For, "Any vessel built in Great Britain, and navigated according to law, and belonging to any of his Majesty's subjects, of which the major part shall be residing in Great Britain, and the residue in Great Britain, or in some of his Majesty's Sugar Colonies in America, may load sugars of the growth of the said Colonies, or any of them, and carry the same from thence to any part of Europe, under certain restrictions and regulations." See the 12 Geo. II. c. 30. extended to all ships belonging to Great Britain by 15 Geo. II. c. 33. s. 5.—The Act of the 12 Geo. II. c. 30. was continued down from time to time, and by 18 Geo. III. c. 45. s. 3. is continued to September 1785, &c.

And before the Civil War broke out in America, "Any vessel belonging to his Majesty's subjects residing in Great Britain, and navigated according to law, might load rice in North Carolina, South Carolina, Georgia, East and West Florida, and carry the same directly to any part of Europe, southward of Cape Finisterre, without carrying the same to any other Plantation, or to Great Britain, under certain regulations." See the 3 Geo. II. c. 28. allowing this liberty to rice from Carolina—8 Geo. II. c. 19. extending it to Georgia—5 Geo. III. c. 49. s. 19. extending it North Carolina—10 Geo. III. c. 31. 11 Geo. III. c. 39. extending it to East and West Florida. But North Carolina, South Carolina, and Georgia, are now acknowledged to be independent; and East and West Florida are ceded to Spain.

All the produce of the British American Plantations, was divided into enumerated and non-enumerated Articles. The enumerated Articles, were those particularly named in 12 Car. II. c. 18. s. 18,

§ 18, 19. 15 Car. II. c. 7. f. 9. 22, 23 Car. II. c. 26. f. 10, 11, 12, 13. 7 & 8 W. III. c. 22. 3 & 4 Ann. c. 5. f. 12. 3 & 4 Ann. c. 10. 8 Geo. I. c. 15. f. 24. 8 Geo. I. c. 18. f. 22. which enumerated Articles are sugar, cotton, wool, tobacco, indico, ginger, dying woods, rice, molasses, furs, and copper ore of the Plantations; tar, pitch, turpentine, masts, yards, bowsprits, coffee, pimento, cocoa-nuts, whale fins, raw silk, hides and skins, pot and pearl ashes of America; and all those articles before the Union, must have been brought to England only—after the 5 Ann. c. 8. art. 4. to Great Britain only—and since the 20 Geo. III. c. 10. they must be brought to Great Britain or Ireland, except that sugars may be carried directly to any foreign port, under the restrictions of 12 Geo. II. c. 30.—and that, before the Civil War, rice might have been carried to the southward of Cape Finisterre, under the Acts 3 Geo. II. c. 28. &c.

The non-enumerated articles, are those which the several Acts regarding the Colonies do not specify.

By 4 Geo. III. c. 15. f. 28. 5 Geo. III. c. 45. f. 22. 6 Geo. III. c. 52. f. 30. 7 Geo. III. c. 2. 9 Geo. III. c. 28. f. 3. The non-enumerates might be carried to any part of Europe to the southward of Cape Finisterre—to any of the British Colonies in America—to any port of Spain within the Bay of Biscay—to Ireland—and to Jersey or Guernsey (except rum to those two last mentioned Islands) as well as to Great Britain.

Such lumber, as is specified in 8 Geo. I. c. 12. f. 2. might be carried to any of the British Colonies in America—to any place in America, Africa, or Asia—to Ireland—the Madeiras—the Azores—and to any part of Europe to the southward of Cape Finisterre—and iron might be

carried to any British Colony in America—to any place in America, Africa, or Asia—and to Ireland, as well as to Great Britain, to which place only all the above articles must have been formerly imported. But since the Union of England and Scotland, and the making the 20 Geo. III. c. 10. with respect to Ireland, the Scotch and Irish are intitled to the same free trade and navigation to and from British America, as the English have.

Several free ports were also opened in two British Islands in the West Indies; for by 6 Geo. III. c. 49. s. 1. “Live cattle, and all manner of goods and commodities, the growth or produce of any Colony or Plantation in America, not under the dominion of his Majesty, his heirs and successors, except tobacco, might be imported into Prince Rupert’s Bay, and Roseau in the Island of Dominica, from any foreign Colony or Plantation in America, in any foreign sloop, schooner, or other vessel whatsoever, not having more than one deck.” (expired as to Dominica)—And by sect. 2. “Live cattle, and all manner of goods and commodities, the growth or produce of any Colony or Plantation in America, not under the dominion of his Majesty, his heirs and successors, except sugars, coffee, pimento, ginger, melasses, and tobacco, may, in like manner, be imported into Kingston, Savanna la Mar, Montego Bay, and Santa Lucca, in the Island of Jamaica, from any foreign Colony or Plantation in America, in any foreign sloop, schooner, or other vessel whatsoever, not having more than one deck.”

This Act was continued and amended by the 13 Geo. III. c. 73. But by 14 Geo. III. c. 41. and 21 Geo.,

21 Geo. III. c. 29. it is continued as to Jamaica only, and will be in force until November 1787, &c.

Since the former part of this chapter was compiled, two Acts have been passed by the British Parliament, in consequence of the late peace.—The first is statute 23 Geo. III. c. 26. intituled, “An Act to repeal so much of two Acts made in the 16th and 17th years of the reign of his present Majesty, as prohibits trade and intercourse with the United States of America. By this Statute, so much of the 16 Geo. III. c. 5. (as prohibits all trade and intercourse with the Thirteen Colonies, in the Act named, during the continuance of the rebellion within the said Colonies respectively, &c.) And also, so much of the 17 Geo. III. c. 7. (as enables the Commissioners for executing the office of Lord High Admiral of Great Britain, to grant commissions to the commanders of private ships of war and vessels employed in trade, or retained in his Majesty’s service, to take, and make prize of all such ships and vessels, and their cargoes, as are therein mentioned, for a limited time) so far as such Acts extend to prohibit trade and intercourse with the territories now composing the United States of America, or to authorise any hostilities against the persons or properties of the subjects and citizens of the said United States, after the respective periods set forth in his Majesty’s Proclamation, for the cessation of hostilities between Great Britain and the United States of America, bearing date the 14th day of February 1783, are repealed.”

The second statute is 23d Geo. III. c. 39. intituled, “An act for preventing certain instruments from being required from ships belonging to the United States of America;”

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“ his Majesty, for a limited time, certain powers
“ for the better carrying on trade and commerce
“ between the subjects of his Majesty’s domi-
“ nions, and the inhabitants of the said United
“ States.”

By this act, “ No manifest, certificate, or
“ other document, is required for any ship or
“ vessel belonging to the United States of Ame-
“ rica, arriving from thence, at, or clearing out
“ from, any port in this kingdom, for any place
“ within the said United States, excepting such
“ bonds as are required, duly to export, and not
“ to reland any goods entitled to a drawback or
“ bounty, or which are prohibited to be used
“ or worn in this kingdom.—Which bond may
“ be discharged upon a certificate under the
“ hands and seals of any officers appointed by
“ the United States for that purpose; and where
“ no such officer is appointed, then the bond
“ may be discharged upon a certificate under the
“ hand and seal of any Magistrate of the said
“ United States, certifying that there is no such
“ officer at such place; and that oath hath been
“ made before such Magistrate, by the master, or
“ other person having the charge of such ship,
“ that the goods for which such certificate is re-
“ quired, were duly landed by him within the
“ said United States.

“ And his Majesty in Council may, by orders
“ published from time to time, give such di-
“ rections, and make such regulations, with re-
“ spect to duties, drawbacks, or otherwise, for
“ carrying the trade between the territories of
“ Great Britain and those of the United States,
“ as to his Majesty in Council shall appear most
“ expedient and salutary. But the act, and the
“ powers and authorities thereby given to his
“ Majesty,

“ Majesty, and all orders published in consequence thereof, are to be in force until the 20th of December 1783, and no longer.”

C H A P. III.

Of the Thirteen United States of America, whose Independence hath been lately acknowledged by Great Britain.

IN the year 1775, the Civil War broke out in the Massachusetts's Bay, and soon extended itself throughout all the Thirteen British Colonies, from New Hampshire to Georgia inclusive. Numbers of the inhabitants of those Colonies, sensible of the happiness they enjoyed under the Government of Great Britain, were averse to the measures carried on in America: but many of them acquiesced through fear. However, there were some who (remembering their allegiance to their Sovereign, and their gratitude to Great Britain) adhered to their loyalty at every risk; and are now respected by men of every denomination. I could adduce instances of conduct in loyalists, that would do honour to human nature; but there is one which I cannot pass over, because it shews with what firmness men will act, when they are conscious that they have taken the right side of a question.—A fort was reduced by the Americans on the River Savannah; and such of the loyal militia as were in garrison there, had the alternative offered them, of enlisting with the Americans, or being put to death. Amongst the loyalists was a young man who desired a few minutes to consider of the proposal; and after a short pause, he resolutely answered, “ That he
“ preferred

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“ preferred death to disgrace ;” on which he was immediately cut down with a broad sword.

The Thirteen United Colonies declared themselves to be Free and Independent States on the 4th of July 1776. I leave it to those who write the History of the Civil War in America, to specify the arts that were used in the Continental Congress, to bring about the declaration of Independence.

On the 9th of July 1778, Articles of Confederation and perpetual Union were agreed upon in the Continental Congress held at Philadelphia ; but those Articles of Confederation were not finally ratified until the 1st of March 1781, when the State of Maryland, by their Members in Congress, on that day acceded thereto, and completed the same.

The principal parts of the Articles of Confederation are,

“ That the style of the Confederacy shall be
“ The United States of America ;” but each State
“ retains its sovereignty, freedom, and independence, and every power, jurisdiction and right,
“ which is not expressly delegated to the United
“ States in Congress.—The States enter into a
“ firm league of friendship, for their common
“ defence, the security of their liberties, and their
“ mutual and general welfare, against all attacks
“ on account of religion, sovereignty, trade, or
“ any other pretence.—The free inhabitants
“ of each State (paupers, vagabonds, and fugitives excepted) shall be entitled to all privileges and immunities of free citizens in the
“ several States, and shall have free ingress and
“ regress, and all the privileges of trade and
“ commerce, subject to the same duties and restrictions as the inhabitants ; but such restrictions
“ tions

" tions are not to extend to the removal of pro-
 " perty imported into any State, to any other
 " State, of which the owner is an inhabitant;
 " and no imposition, duties, or restriction, are
 " to be laid by any State on the property of the
 " United States, or either of them.—Persons
 " charged with treason, felony, or other high
 " misdemeanour, flying from justice, shall, upon
 " demand, be delivered up: and full faith and
 " credit shall be given, by each State, to the
 " records, acts, and judicial proceedings, of the
 " Courts and Magistrates of the other States.—
 " Delegates are to be annually appointed by
 " each State, to meet in Congress on the first
 " Monday in November; but each State may
 " recal its Delegates within the year, and send
 " others for the remainder of the year. No State
 " is to be represented in Congress by less than
 " two, nor more than seven Members; and no
 " person is to be a Delegate for more than three
 " years in six, nor, whilst a Delegate, can he hold
 " an office under the United States, for which
 " he receives any salary, fees, or emoluments.
 " Each State is to maintain its own Delegates,
 " whilst they act as such: and in determining
 " questions in Congress, each State shall have
 " one vote. Freedom of speech and debate in
 " Congress, shall not be questioned out of it;
 " and the Members shall be protected from ar-
 " rest and imprisonment in going to, coming
 " from, and attendance on Congress, except
 " for treason, felony, or breach of the peace.—
 " No State, without the consent of the others in
 " Congress, is to send or receive an embassy, or
 " enter into any conference, &c. with any King,
 " Prince, or State; nor shall any person in office
 " under the United States, or any of them, ac-
 " cept

“ cept of any present, emolument, office or title,
 “ from any King, Prince, or foreign State : not
 “ shall the United States, in Congress assembled,
 “ grant any title of Nobility. No two or more
 “ States, shall enter into any treaty, &c. without
 “ the consent of the Continental Congress. And
 “ no State shall lay any imposts, or duties inter-
 “ fering with treaties entered into by the Con-
 “ tinental Congress, with any King, &c. in pur-
 “ suance of any treaties already proposed by
 “ Congress to the Courts of France and Spain.—
 “ No vessels of war, or body of forces, are to be
 “ kept up in peace by any State, except such as
 “ are deemed necessary by the Continental Con-
 “ gress ; but every State is to keep up a well dis-
 “ ciplined militia, sufficiently accoutered, with
 “ a proper quantity of field pieces, tents, arms,
 “ ammunition, and camp-equipage: But no State
 “ is to engage in a war without consent of the
 “ Continental Congress, unless it is actually in-
 “ vaded, or receives advice that some Indian
 “ Nation intends so to do, and the danger will
 “ not admit of the Continental Congress being
 “ assembled and consulted. And no State is to
 “ grant commissions or letters of marque to any
 “ vessel, except after war is declared by the Con-
 “ tinental Congress ; and then only against the
 “ State at war, and under the regulations esta-
 “ blished by the Continental Congress ; except
 “ against pirates, and for so long as the danger
 “ continues, or until the Continental Congress
 “ shall determine otherwise.—When land forces
 “ are raised for the common defence, all officers
 “ under the rank of Colonel shall be appointed
 “ by the State that raises them ; and all vacancies
 “ are to be filled up by the State that first made
 “ the appointment.—All expences incurred for
 “ the

“ the common defence, and allowed by the Con-
 “ tinental Congress, shall be defrayed out of a
 “ common treasury supplied by the several States,
 “ in proportion to the value of land within each,
 “ as the Continental Congress shall from time
 “ to time direct : but the taxes shall be laid and
 “ levied by the Legislatures of the several States,
 “ within the time agreed upon by the Continen-
 “ tal Congress, who have also the sole power of
 “ determining on peace or war (except in cases
 “ of invasion, &c. as before mentioned); sending
 “ and receiving ambassadors; entering into trea-
 “ ties and alliances (but not to restrain the Le-
 “ gislature of each State from imposing such
 “ duties on foreigners, as their own people are
 “ subject to, nor from prohibiting the exporta-
 “ tion or importation of any goods); of establish-
 “ ing rules for deciding on captures by land or
 “ water, and in what manner those taken by the
 “ forces in the service of the United States shall
 “ be appropriated; of granting letters of marque
 “ and reprisal in times of peace; appointing
 “ Courts for the trial of piracies and felonies on
 “ the high seas; and establishing Courts for ap-
 “ peal in all cases of captures; but no Member
 “ of the Continental Congress is to be a Judge
 “ of any of the said Courts.—The Continental
 “ Congress is also the last resort on appeal, in all
 “ disputes between two or more States, concern-
 “ ing boundary, jurisdiction, or any other cause:
 “ and on the petition of either party, they finally
 “ determine all controversies concerning the pri-
 “ vate right of soil, claimed under different
 “ grants of two or more States, whose jurif-
 “ dictions, as they may respect such lands, and
 “ the States which passed such grants, are adjusted;
 “ the said grants, or either of them, being at
 “ the

“ the same time claimed to have originated an-
 “ tecedent to such settlement of jurisdiction ;
 “ which authorities of the Continental Congress,
 “ in both cases, are to be exercised in the man-
 “ ner particularly directed in the 2d section of
 “ the 9th Article of Confederation : but no State
 “ shall be deprived of territory for the benefit of
 “ the United States.—The Continental Congress
 “ hath also the sole power of regulating the
 “ alloy and value of coin, struck by their own
 “ authority, or that of the respective States ; fix-
 “ ing the standard of weights and measures ; ma-
 “ naging all affairs with the Indians, not Mem-
 “ bers of any State (but not to infringe the le-
 “ gislative right of any State within its own li-
 “ mits) ; establishing and regulating post-offices
 “ throughout all the States, and exacting such
 “ postage as may defray the expence of the of-
 “ fice ; appointing all naval officers, and all but
 “ regimental officers, in the land forces of the
 “ United States ; and commissioning all officers
 “ whatsoever in such service ; and making rules
 “ for the Government, and directing the opera-
 “ tions of all the Continental land and naval
 “ forces.—The Continental Congress is also to
 “ appoint a Committee to sit in the recesses of
 “ Congress, named, “ a Committee of the States,”
 “ and to consist of one Delegate from each State :
 “ to appoint such other Committees, and civil
 “ officers, as may be necessary for managing the
 “ general affairs of the United States under their
 “ direction : to appoint one of their number to
 “ preside ; but none is to be President more than
 “ one year in three : to ascertain the sums of
 “ money to be raised for the service of the United
 “ States, and to apply the same : to borrow
 “ money, or emit bills of credit : to build and
 “ equip

“ equip a navy : to agree upon the number of
 “ land forces, and to make requisitions from each
 “ State for its quota, in proportion to the num-
 “ ber of its white inhabitants, which requisition
 “ is to be binding ; and the Legislature of each
 “ State is to appoint the regimental officers, and
 “ raise, clothe, arm, and equip the men (at the
 “ expence of the United States) who are to
 “ march at the time, and to the place appointed
 “ by the Continental Congress.—But not less than
 “ Nine of the United States in Congress, can en-
 “ gage in a war ; or grant letters of marque and
 “ reprisal in time of peace ; or enter into any
 “ treaties or alliances ; or coin money ; or regu-
 “ late the value thereof ; or ascertain the neces-
 “ sary expence for the defence of the United
 “ States ; or emit bills, or borrow money on the
 “ credit of the United States ; or appropriate
 “ money ; or agree upon the number of vessels
 “ of war to be built or purchased ; or the num-
 “ ber of land or sea forces to be raised ; or ap-
 “ point a Commander in Chief of the army or
 “ navy. And no question, except for adjourn-
 “ ment from day to day, shall be determined,
 “ unless by the votes of a majority of the United
 “ States in Congress ; who have a power to ad-
 “ journ to any place within the United States,
 “ and for any time within the year, not exceed-
 “ ing six months at a time. And they are to
 “ publish the Journals monthly, except such parts
 “ relating to treaties, alliances, or military op-
 “ erations, as in their judgment require secrecy ;
 “ and the Yeas and Nays on any question shall
 “ be entered on the Journal, if desired by a
 “ Delegate, who shall also be furnished with a
 “ transcript of the Journal on request (except
 “ those which require secrecy, as above men-
 E “ tioned)

" tioned) to be laid before the Legislature of his
 " State.—The Committee of the States, or any
 " Nine of them, are authorised to execute (in the
 " recess of Congress) such of the powers of Con-
 " gress, as the United States, in Congress as-
 " sembled, by the consent of Nine States, shall
 " from time to time think expedient to vest
 " them with; but no power can be delegated to
 " the Committee, for the exercise of which, by
 " the Articles of Confederation, the voice of Nine
 " States, in the Congress of the United States,
 " is requisite.—No other Colony can be admit-
 " ted into the Confederation, unless such admis-
 " sion be agreed to by Nine States.—All bills of
 " credit emitted, monies borrowed, and debts
 " contracted, by or under the authority of Con-
 " gress, before the assembling of the United
 " States, in pursuance of the Confederation, are
 " considered as a charge against the United States,
 " and for payment thereof the United States, and
 " the public faith, are pledged.—Every State is
 " to abide by the determination of the Continen-
 " tal Congress, on all questions which, by the
 " Confederation, are submitted to them; and
 " the Articles of the Confederation are to be in-
 " violably observed by every State, and the union
 " is to be perpetual; nor is any alteration to be
 " made in the Articles, unless in the Continental
 " Congress, and the same is afterwards confirmed
 " by the Legislature of every State.

" Every Article of the Confederation and per-
 " petual Union, and all matters therein con-
 " tained, were ratified by the Delegates, in the
 " name and behalf of their Constituents; and the
 " Delegates signed the Confederation, and so-
 " lemnly plighted the faith of their respective
 " Constituents, that they should abide by the de-
 " termination

“ termination of the Continental Congress, in all
“ questions submitted to them by the Confede-
“ ration ; and that the Articles thereof should be
“ inviolably observed by the States, they respec-
“ tively represented ; and that the Union should
“ be perpetual.”

The UNITED STATES of AMERICA have adopted different Constitutions or forms of Government ; and there are not any two States in which the forms of Government agree in every particular. These Constitutions have also been agreed to at different times ; one of them so early as January 1776, and another of them not till 1780.

The Constitution or form of Government in NEW HAMPSHIRE, was established in the Provincial Congress at Exeter, on the 5th of January 1776, (in consequence of a recommendation from the Continental Congress) to continue during the contest with Great Britain.

“ The Provincial Congress assumed the name,
“ power, and authority of a House of Representa-
“ tives for the Colony of New Hampshire, and
“ then proceeded to chuse twelve reputable
“ Freeholders and Inhabitants of the Colony out
“ of the five Counties, to be a distinct and sepa-
“ rate Branch of the Legislature, by the name
“ of the Council for the Colony of New Hamp-
“ shire ; which Council was to continue till the
“ third Wednesday in December following, and
“ any seven of them were to be a quorum to do
“ business. But if the dispute with Great Britain
“ continued longer than that year, and the Con-
“ tinental Congress gave no directions to the
“ contrary, the Council was to be chosen by the
“ people of each respective County, as the Coun-
“ cil and House of Representatives should order :
“ and precepts in the name of the Council and As-

“ ssembly, signed by the President of the Council,
 “ and Speaker of the House of Representatives,
 “ are to issue annually, at or before the 1st of
 “ November, for the choice of a Council and
 “ House of Representatives, to be returned the
 “ third Wednesday in December, in such manner
 “ as the Council and Assembly shall prescribe.
 “ And (by a resolution of the Council and As-
 “ ssembly of the 19th of September 1776) as any
 “ new towns and settlements in the State shall
 “ increase in inhabitants, precepts are to issue for
 “ sending Delegates to the Council and Assembly,
 “ proportionally with other parts of the State.—
 “ The Council appoint their President; and in
 “ his absence the senior Councillor presides.—
 “ The Secretary is appointed by both branches,
 “ and may be a Councillor or otherwise as they
 “ chuse.—No act or resolve is to be valid, and
 “ put in execution, unless agreed to and passed
 “ by both branches of the Legislature.—All
 “ public Officers for the Colony, and each
 “ County (except the Clerks of the executive
 “ Courts, who are to be appointed by the re-
 “ spective Courts), are appointed, and their con-
 “ tinuance in office determined by the two
 “ Houses, except Clerks and County Treasurers,
 “ and Recorders of Deeds.—And a Treasurer
 “ and Recorder of Deeds for each County, are
 “ annually chosen by the people of each County
 “ respectively; and the votes for such Officers
 “ are to be returned to the respective Courts of
 “ General Sessions of the Peace in the County,
 “ there to be ascertained as the Council and As-
 “ ssembly direct.

“ All bills, resolves, or votes for raising, levy-
 “ ing and collecting of money, are to originate
 “ in the House of Representatives.—At any Ses-
 “ sions

“ sions of the Council and Assembly, neither
 “ Branch shall adjourn for any longer time than
 “ from Saturday till the next Monday, without
 “ consent of the other.”

MASSACHUSETT'S BAY.

The Constitution or frame of Government of the State of Massachusetts Bay, was agreed upon by the Delegates of the people of that State in Convention, at Cambridge, begun the 1st of September 1779, and continued by adjournment to the 2d of March 1780.

In the summary of this and some other Constitutions that follow, I have, for the sake of perspicuity, arranged the several particulars more methodically than they are in the Constitution at large.

“ The Convention forms the territory formerly called the Province of Massachusetts Bay, into a free, sovereign, and independent Body Politic, or State, by the name of the Commonwealth of Massachusetts.

“ No subject is to be molested for worshipping God in the manner and season most agreeable to his conscience, or for his religious sentiments, if he doth not disturb the public peace, or obstruct others in their religious worship : and the Legislature is to require the several towns, &c. to make suitable provision, at their own expence, for the public worship of God, and the support of public Protestant teachers, where such provision is not made voluntarily ; and to enjoin all subjects to attend public teachers at stated seasons, if there be any on whom they conscientiously can attend ; but the towns, &c. have the exclusive right of electing
 “ public

54 *Constitution of the BRITISH COLONIES*

“ public teachers, and contracting with them
“ for their support: and all monies paid by the
“ subject, to the support of public worship and
“ public teachers, are, if he requires it, to be
“ uniformly applied to the support of those of
“ his own sect; but if he attends none, then the
“ the monies are to be paid towards the support
“ of the teacher of the parish or precinct where
“ raised; and every denomination of Christians
“ demeaning themselves peaceably, and as good
“ subjects, are to be equally under the protection
“ of the law; and no subordination of any one
“ Sect to another, is ever to be established by
“ law.

“ The Governor of the Commonwealth of
“ Massachusetts, is the supreme executive Mag-
“ gistrate, and styled, “ His Excellency.”—He
“ is chosen annually by the Freeholders and
“ other Inhabitants; must have resided in the
“ State seven years; have a freehold there worth
“ £ 1000, and declare himself to be of the
“ Christian religion: He can assemble the Coun-
“ cillors at discretion; and he, and not less than
“ Five Members, can make a Council for order-
“ ing the affairs of the Commonwealth, accord-
“ ing to law.—He is Governor of the Common-
“ wealth, Commander in Chief by sea and land,
“ and hath all powers incident to the offices of
“ Captain General and Admiral, agreeable to
“ the rules of the Constitution.—He can, with
“ the advice of Council, pardon all criminals,
“ after conviction, except those impeached by
“ the House: and, with the advice and consent
“ of Council, he appoints all judicial Officers,
“ Attorney and Solicitor General, Sheriffs, Coro-
“ ners, and Registers of Probate; and is to have an
“ honourable stated salary established by standing
“ law.

“ law.—All commissions are in the name of the
 “ Commonwealth, under the Great Seal, signed
 “ by the Governor, and attested by the Se-
 “ cretary.

“ The Lieutenant Governor is annually elected
 “ in the same manner as the Governor: he is
 “ styled, “ his Honour;” and must be qualified
 “ as to religion, property, and residence, as the
 “ Governor is; and in the Governor’s absence
 “ he is President of the Council, but has no
 “ vote; and is always a Member of the Coun-
 “ cil, except when the Governor’s chair is va-
 “ cant. If the Governor is dead, or absent from
 “ the Commonwealth, the Lieutenant Governor
 “ (during such vacancy) exercises all such powers
 “ as the Constitution vests in the Governor when
 “ present.

“ Nine Councillors are annually chosen from
 “ among the persons returned for Councillors
 “ and Senators, by joint ballot of the Senators
 “ and Representatives assembled in one room;
 “ and those who accept the office of Councillors,
 “ vacate their seats in the Senate.—The Council-
 “ lers rank next after the Lieutenant Governor;
 “ the Governor assembles them at his discretion,
 “ and Five at least, with the Governor, make a
 “ Board. Whenever the Governor and Lieute-
 “ nant Governor are dead, or absent, the Council,
 “ or a majority during such vacancy, exercise
 “ those powers which the Constitution vests in the
 “ Governor when present.

“ The Senate is the first branch of the Le-
 “ gislature, and annually elected by the Free-
 “ holders and Inhabitants; and each Senator
 “ must have a freehold worth L. 300, or a per-
 “ sonal estate worth L. 600: they are Judges of
 “ the elections, returns, and qualifications of their

“ Members, determine their own rules of pro-
 “ ceeding, chuse their own President and Of-
 “ ficers; but can adjourn themselves no longer
 “ than two days at a time.—They are a Court to
 “ determine all impeachments made by the House
 “ of Representatives against any Officer for mal-
 “ administration: however, their judgment ex-
 “ tends no farther than removal from, and dis-
 “ qualification to hold any place of trust, honour,
 “ or profit; but the Delinquent is liable to in-
 “ dictment at law.—Not less than Sixteen of the
 “ Senate can make a quorum to do business.

“ The House of Representatives is chosen by
 “ the Freeholders and Inhabitants, and each
 “ Member must have resided one year in the
 “ town he represents, and own there a freehold
 “ worth *L.* 100, or any rateable estate of the
 “ value of *L.* 200; and on his ceasing to be qua-
 “ lified he loses his seat.

“ The Representatives are annually chosen in
 “ May; they are the grand Inquest of the Com-
 “ monwealth, and all their impeachments are
 “ tried by the Senate. All money-bills originate
 “ with the Representatives; but the Senate may
 “ propose or concur in amendments of them, as
 “ of other bills: they can adjourn themselves no
 “ longer than two days at a time; and sixty Mem-
 “ bers make a House. They are Judges of their
 “ own returns, elections and qualifications, chuse
 “ their own Speaker, appoint their own Officers,
 “ and settle the rule of proceeding in their
 “ own House. They can imprison every person
 “ (not a Member) for disrespect to the House;
 “ contemptuous behaviour in its presence; or
 “ threatening the body or estate of any Member
 “ in the town where the General Court sits; or
 “ assaulting a Member; or assaulting or arrest-
 “ ing

“ing a person ordered to attend the House; or
“rescuing one arrested by its order. The Go-
“vernor and Council, and the Senate, have
“the same power of punishing contempts;
“but neither of the three Bodies can imprison
“for more than thirty days. And both Houses
“may determine cases of right and privilege, by
“their own Committees or otherwise, as each
“House thinks best.

“The Legislature is formed by the Senate and
“House of Representatives, and each has a ne-
“gative on the other. They are styled, “The
“General Court of Massachusetts;” and all laws
“run, “Be it enacted by the Senate and House
“of Representatives, in General Court assembled,
“and by the authority of the same.” Both Houses
“meet on the last Wednesday in every May: the
“Governor, with the advice of Council, may,
“during the Session of the General Court, ad-
“journ or prorogue them to any time they desire:
“in their recess, he may prorogue them for not
“more than ninety days in any one recess, and
“may call them together before the end of the
“adjournment or prorogation, if the welfare of
“the Commonwealth requires it; and he must
“dissolve them on the day preceding the last
“Wednesday in every May. If both Houses
“disagree about the time of adjournment or pro-
“rogation, the Governor can, with the advice
“of Council, adjourn or prorogue them, not ex-
“ceeding ninety days, as the public good may
“require; and in case of an infectious distemper,
“or other danger to the health or lives of the
“Members of the General Court, he may direct
“the Session to be held in some other place than
“that where they were to meet.—No bill or re-
“solve of the Senate or House of Representatives
“shall

" shall become a law, until the Governor revises
 " it, and in case of his approbation, he is to sign
 " it; but he may within five days, after any bill
 " or resolve is presented to him, return it with
 " his objections thereto in writing, to the House
 " in which it originated. And if, after recon-
 " sideration, two-thirds of the Members present
 " in each House, approve of the bill or resolve,
 " it shall have the force of a law; but in all such
 " cases, the votes of both Houses shall be deter-
 " mined by Yeas and Nays, and the names of the
 " persons voting for, or against the bill or re-
 " solve, shall be entered upon the public records
 " of the Commonwealth. The General Court
 " can constitute Courts of Record or others, to
 " be held in the name of the Commonwealth,
 " with power to try all criminal and civil mat-
 " ters; and all Writs are to issue in the name of
 " The Commonwealth of Massachusetts," under
 " the Seal of the Court, and the *teste* of the first
 " Justice thereof, who is not a party; and are to
 " be issued out, and signed by the Clerk of such
 " Court. The General Court names all Officers
 " whose appointment is not otherwise provided
 " for; and monies raised by them, are issued by
 " Warrant of the Governor, with the advice and
 " consent of Council, for the public service, as
 " the Acts direct. All judicial Officers (whose
 " appointment is not otherwise provided for) are
 " nominated by the Governor, with the advice
 " and consent of the Council, during good be-
 " haviour, but may be removed by the same au-
 " thority, upon address of both Houses of Le-
 " gislature. The Judges of the Supreme Judicial
 " Court, have honourable salaries, established by
 " standing law; and each branch of the Legisla-
 " ture, as well as the Governor and Council, can
 " require

“ require their opinions upon important questions
 “ of law, and solemn occasions. All causes of
 “ marriage, divorce, and alimony, and all ap-
 “ peals from the Judges of Probate, are to be
 “ determined by the Governor and Council, un-
 “ til the legislature shall make other provision.
 “ But the legislative department, is never to ex-
 “ ercise the executive and judicial powers; the
 “ executive is never to exercise the legislative and
 “ judicial powers; and the judicial is never to
 “ execute the legislative and executive powers,
 “ and all Officers must take the Oath of Alle-
 “ giance, and Oath of Office set forth in the
 “ Constitution. All laws formerly adopted, and
 “ usually practised in the Courts of Law (except
 “ such as are repugnant to the Constitution) are
 “ to remain, until altered by the Legislature; but
 “ the Trial by Jury is to remain sacred in all
 “ Cases, unless in such laws as the Legislature
 “ may make for the government of the army and
 “ navy, concerning matters arising on the high
 “ seas, and causes relating to mariners wages.

“ The Massachusetts’s form of Government, is
 “ ordered to be enrolled on parchment, deposited
 “ in the Secretary’s Office, and is a part of their
 “ laws; and printed copies of the form of Go-
 “ vernment, are to be prefixed to all future edi-
 “ tions of their Book of Laws.

“ In order to adhere to the principles of the
 “ Constitution, to correct the violations of it,
 “ and to form such alterations, as from expe-
 “ rience shall be found necessary, the General
 “ Court, in 1795, is to issue precepts for conven-
 “ ing the qualified voters, to collect their sen-
 “ timents on the necessity or expediency of re-
 “ vising the Constitution, in order to amend-
 “ ments; and if two thirds of the qualified voters
 “ of

“ of the State, who assemble, vote for a revision and amendment, then the Towns are to elect Delegates to meet in Convention for that purpose; and the Delegates are to be chosen in the same manner and proportion, as the House of Representatives is by the Constitution.”

The State of RHODE-ISLAND and PROVIDENCE PLANTATIONS.

King Charles the Second, in the 15th year of this reign (which was 1663) granted a Charter of Incorporation to the inhabitants of those Plantations, by the name of “ The Governor and Company of the English Colony of Rhode Island, and Providence Plantations in New England in America;” to be holden of him, his heirs, and successors, as of his manor of East Greenwich in Kent, in free and common soccage. In that Charter, the King grants the Governor and Company the legislative, executive, and judicial powers, reserving to himself, as an acknowledgment of his sovereignty, a render of the fifth part of the gold and silver ore that should be found within the territory. In pursuance of the Charter, one Governor, one Deputy Governor, ten assistants were annually elected, and six freemen for Newport; four for each of the towns of Providence, Portsmouth, and Warwick; and two for each other place, town, or city, were elected every six months by the Freemen, and were called the General Assembly, which had full power and authority given them by the Charter, to make such laws, statutes, &c. as were not contrary or repugnant unto, but as near as might be agreeable to the laws

laws of the realm of England, considering the nature and constitution of the place and people there, to establish courts, and constitute officers; reserving an appeal to the King in England in all matters of public controversies. Under the title, "Rhode Island," in the collection of the Constitutions of the States of America, is inserted the Charter of King Charles the Second; and it is said, "That since the commencement of hostilities by Great Britain, the State of Rhode-Island and Providence Plantations has not assumed a form of Government different from that contained in the Charter. For in that, the King ceded to the Governor and Company all powers, legislative, executive, and judicial, reserving to himself, as an acknowledgment of his sovereignty, a render of the fifth part of the gold and silver ore that should be found within the territory. The Governor, Chief Magistrates, and Legislators, are chosen by the Freemen as usual; and all judicial and executive officers are annually elected by the Governor and Company, or Upper and Lower House of Assembly. All process, original and judicial, formerly issued in the King's name, but now issues in the name of the Governor and Company. The oaths of allegiance and office, are made conformable to the principles of the Revolution. The Governor, in his legislative capacity, cannot give a negative to any Act of the two Houses; but, in common with the other Magistrates, has one voice only.

"The State is divided into five Counties, in each of which there is a Court of Common Pleas, and General Sessions of the Peace, held twice every year, for the trial of all causes not capital, that arise within their limits; from
"which

“ which an appeal lies to the superior Court of
 “ Judicature, Court of Assize, and General Goal
 “ Delivery, whose jurisdiction extends over the
 “ whole State, and who also sit twice a year in
 “ each County. The Constitution admits not of
 “ religious establishments, any farther than de-
 “ pends upon the voluntary choice of individuals.
 “ All men professing one Supreme Being, are
 “ equally protected by the laws; and no parti-
 “ cular Sect can claim pre-eminence.”

The State of CONNECTICUT.

King Charles the Second, in the 14th year of his reign (which was 1662), granted a Charter of Incorporation to the inhabitants of Connecticut, of the same tenor with that of Rhode-Island. An account of the Constitution of Connecticut is inserted amongst the other Constitutions of the American States, and seems to be the same, in most respects, with that which is contained in their Charter, except that the name of the Governor and Company is substituted in the room of that of the King. The Connecticut Charter is not prefixed to the account of its Constitution; but the Charter may be seen in the second volume of Almon's Parliamentary Register.

The account of the Constitution of Connecticut, says, “ That it is divided into six Counties,
 “ and each County is divided into a number of
 “ Towns. Each Town has a right to send two Re-
 “ presentatives to the General Court or Assembly.
 “ The General Court consists of two branches,
 “ called the Upper and Lower House. The
 “ Upper House is composed of the Governor,
 “ Deputy Governor, and twelve Assistants or
 “ Counsellors; and the Lower House, of the Re-
 “ presentatives of the several Towns. This Court
 “ has

“ has the sole power to make and repeal laws,
 “ grant levies, dispose of lands belonging to the
 “ State, to particular towns and persons; to
 “ erect and style judicatories and officers, as they
 “ shall see necessary, for the good government of
 “ the People; and also to call to account any
 “ Court, Magistrate, or other Officer, for any
 “ misdemeanor or mal-administration; and for
 “ just cause, may fine, displace, or remove them,
 “ or deal otherwise, as the nature of the case
 “ shall require; and they act in any other manner
 “ that concerns the good of the State, except
 “ the election of Governor, Deputy Governor,
 “ Assistants, Treasurer, and Secretary, which is
 “ done by the Freemen at the yearly Court of
 “ Election, unless there be any vacancy, by rea-
 “ son of death or otherwise, after the Election,
 “ which may be filled up by the General Court.
 “ That Court has power also, for reasons satis-
 “ factory to them, to grant suspension, release,
 “ and goal delivery, upon reprieve, in capital
 “ and criminal cases. The General Court has
 “ two stated Sessions annually on the second
 “ Thursdays of May and October.

“ The Governor, or, in his absence, the De-
 “ puty Governor; may call the Assembly, on spe-
 “ cial emergencies, to meet at any other time.
 “ The Governor, Deputy Governor, Assistants,
 “ and Secretary, are annually elected on the se-
 “ cond Thursday in May. The Representatives
 “ are newly chosen for each stated Session. The
 “ Judges and Justices are annually appointed by
 “ the General Court; the same persons are com-
 “ monly re-appointed from time to time, during
 “ their capacity to serve, unless guilty of misbe-
 “ haviour. The Sheriffs are appointed by the
 “ Governor and Council without limitation of

“time; but may be superseded by the authority
“that appointed them. The Governor for the
“time being, is Captain General of the Militia;
“the Deputy Governor is Lieutenant General,
“the other General and Field Officers are ap-
“pointed by the General Court, and commis-
“sioned by the Governor. The Captains and
“Subalterns are chosen by the votes of the Com-
“pany and Householders within the limits of
“the Company; the persons so chosen must be
“approved of by the General Court, and com-
“missioned by the Governor before they can exe-
“cute their offices. All the military Officers
“hold their offices during the pleasure of the
“Assembly, nor can they resign their commis-
“sions without leave of the Captain General,
“under penalty of doing duty in the ranks as
“private soldiers. The mode of electing the
“Governor, Deputy Governor, Assistants, Trea-
“surer, and Secretary is, that the Freemen in the
“several Towns meet on the Monday next after
“the first Tuesday in April annually (being the
“day appointed by law for that purpose, and for
“choosing representatives), and give in their votes
“for the persons they chuse for such offices re-
“spectively, with their names written on a piece
“of paper, which votes are received, and sealed
“up by a Constable in the Freemens Meeting.
“The votes for each of the said officers are put
“in a different paper; and on the outside of the
“paper is written the name of the town, and of
“the office for which the names are given in:
“these papers are sent by the Representatives to
“the General Court, to be held on the second
“Tuesday in May next ensuing the Election, at
“which time, after the House of Representatives
“have chosen a Speaker and Clerk, a Committee
“of

“ of Members of both Houses is chosen to sort
 “ and count the votes, and to declare the names
 “ of the persons chosen to the said offices. Any
 “ Freeman qualified to vote for Representatives,
 “ &c. may be elected to any office in the Go-
 “ vernment. In choosing Assistants, twenty per-
 “ sons are nominated by the Votes of the Free-
 “ men, given in at their Meeting for choosing
 “ Representatives in September annually; these
 “ Votes are sealed up, and sent to the General
 “ Court in the October following, when the Votes
 “ are counted by a Committee of both Houses,
 “ and the twenty persons, who have the greatest
 “ number of Votes, stand in nomination, out of
 “ which number Twelve are chosen as Assistants
 “ by the Freemen, in the April following, in the
 “ manner above described. The qualifications
 “ requisite to entitle a person to vote at the elec-
 “ tion of the Officers of Government, are, ma-
 “ turity in years, quiet and peaceable behaviour,
 “ a civil conversation, and forty shillings free-
 “ hold, or forty pounds personal estate: if the
 “ select men of the town certify a person quali-
 “ fied in those respects, he is admitted a Free-
 “ man, on his taking an oath of fidelity to the
 “ State.

“ The names of all that are thus admitted, are
 “ inrolled in the Town Clerk's Office, and con-
 “ tinue Freemen during life, unless disfranchised
 “ by a Sentence of the Superior Court, on convic-
 “ tion of a misdemeanor. The Governor, or, in
 “ his absence, the Deputy Governor in the Up-
 “ per House, and the Speaker of the Lower
 “ House of Assembly, have a casting voice, when
 “ the Members of the respective Houses, includ-
 “ ing the Governor and Speaker, are equally di-
 “ vided in opinion on any question.

F

“ There

“ There is in this State a superior Court, consisting of one Chief Judge, and four other Judges, who have authority in all criminal cases, extending to life, limb, and banishment; and they also determine all civil actions, brought by appeal from the County Courts, or on Writs of Error. This Court has also authority in all matters of divorce. There are two stated Sessions of the superior Court in each County annually.

“ There are also County Courts held in the several Counties, consisting of one Judge, and four Justices of the Quorum, who have jurisdiction in all criminal cases, arising within their respective Counties, where the punishment does not extend to life, limb, or banishment. The County Courts have also original jurisdiction in all civil actions, wherein the demand exceeds forty shillings. The superior and County Courts try matters of fact by a Jury, according to the course of the common law.

“ Justices of the Peace have authority to determine civil actions, where the demand does not exceed forty shillings. They also have authority in some cases of a criminal nature, punishable by fine not exceeding forty shillings; or whipping, not exceeding ten stripes; or setting in the stocks.

“ This State is also divided into a number of probate districts, less than Counties; in each of which is appointed a Judge for the probate of wills, granting administration on intestates' estates, appointing guardians for minors, ordering distribution of intestates' estates, &c. An appeal lies from any decree of this Court to the superior Court. The superior Court
“ and

“ and probate Courts appoint their respective
“ Clerks.

“ The General Court has, till very lately, been
“ the only Court of Chancery in this State. But
“ by a late law, the County Courts determine
“ matters of equity, from five pounds to two
“ hundred pounds value; the superior Court
“ from two hundred to eight hundred pounds
“ value, and the General Assembly determines all
“ cases, exceeding the last mentioned sum.

“ All Attornies at Law, are admitted and
“ sworn by the County Courts; there is no At-
“ torney General, but there used to be one King’s
“ Attorney in each County, who is now styled
“ Attorney to the Governor and Company.”

As the account of the Constitution of Con-
necticut is short, I have inserted it at length,
with the alteration of some inaccuracies; but the
language is still incorrect in several places.
There is no date to the account of the Constitu-
tions of Connecticut and Rhode Island.

NEW YORK.

The Constitution of the State of New York
was established by the Convention (authorised
and empowered for that purpose), April 20,
1777.

As that Constitution differs, in many respects,
from the Constitution of every other American
State, I shall give it more at length than some
of the Constitutions that follow: and, for the
sake of perspicuity, I have arranged it differently
to what it stands in the Constitution at large.

“ The supreme executive power of the State,
“ is vested in a Governor, chosen once in three
“ years, and as often as the Government becomes

“ vacant. He must be a Freeholder of the State,
 “ and elected by those possessed of freeholds in
 “ the four great districts, worth one hundred
 “ pounds more than the debts charged on them.
 “ The Governor, by virtue of his Office, is Ge-
 “ neral and Commander in Chief of the Militia,
 “ and Admiral of the Navy. He may convene
 “ the Legislature on extraordinary occasions, and
 “ prorogue them from time to time, not exceed-
 “ ing sixty days in one year. He may, at his
 “ discretion, reprieve and pardon all crimes, ex-
 “ cept treason or murder; and there he may
 “ suspend the execution until the Legislature
 “ meets, who shall either pardon the criminal,
 “ grant him a farther reprieve, or direct his exe-
 “ cution. He is to inform the Legislature, at
 “ every Sessions, of the condition of the State, so
 “ far as respects his department—he is to recom-
 “ mend such matters to them as concern its
 “ welfare—to correspond with the Continental
 “ Congress, and other States—to transact all bu-
 “ siness with the Officers of Government, civil,
 “ and military—to take care that the laws are
 “ faithfully executed—and to expedite such
 “ measures as may be resolved on by the Legis-
 “ lature.

“ The Lieutenant Governor is chosen in the
 “ same manner, and for the same term as the Go-
 “ vernor. He is President of the Senate, but
 “ has only a casting voice when they are equally
 “ divided. In case of the Governor’s being im-
 “ peached, removed, dead, absent, or having
 “ resigned, he executes the office, until another
 “ Governor is chosen, or the absent or impeached
 “ one, is returned or acquitted. But if in a war,
 “ the Governor is out of the State, at the head
 “ of the militia, and by the consent of the Le-
 “ gislature,

"gislature, he still continues in the command of
"the forces by sea and land.

"When the Lieutenant Governor administers
"Government, or is unable to preside at the Se-
"nate, they shall elect one of their own Mem-
"bers to be their President *pro hac vice*; and in
"case of the death or other disability (above-
"mentioned) of the Governor and Lieutenant
"Governor, the President of the Senate admi-
"nisters Government until the next election by
"the people, unless the temporary disabilities of
"the Governor and Lieutenant Governor are in
"the mean time removed.

"The supreme legislative power is vested in
"two distinct bodies, called "The Assembly of
"the State of New York," and "The Senate
"of the State of New York," who together form
"the Legislature, and are to meet once at least
"in every year, for the dispatch of business.

"The Assembly shall consist of at least fe-
"venty Members, and never exceed three hun-
"dred; and to prevent an increase beyond
"the last number, the Legislature from time to
"time is by law to apportion the Representatives
"amongst the Counties, in proportion to the
"number of Electors, so that the Representation
"of the People may remain proportionate. The
"Assembly is annually chosen in the several Coun-
"ties in the proportion mentioned in the Consti-
"tution, by the male inhabitants of full age,
"residing within one of the Counties for six
"months next before the Election: and each
"Elector must have a freehold worth twenty
"pounds within the County, or a tenement of
"forty shillings a year, and have paid taxes; and
"if required by the returning Officer, must take
"the Oath of Allegiance to the State. The As-

“majority of the Council of Appointment makes
 “a quorum, and with their consent, the Pre-
 “sident appoints all Officers, who are not other-
 “wise elected by the Constitution; and all com-
 “missioned Officers, civil and military, are com-
 “missionated by the Governor; but no Senator
 “is eligible to the Council of Appointment for
 “two years successively.

“The Chancellor, Judges of the Supreme
 “Court, and first Judge of every County Court,
 “are appointed during good behaviour, or till
 “the age of sixty. The Chancellor, and Judges
 “of the Supreme Court, can hold no other of-
 “fice, except that of Delegate to the General
 “Congress, upon special occasions; and the first
 “Judge of each County Court, can hold no other
 “office, except that of Senator or Delegate to
 “the General Congress; but when elected to dif-
 “ferent offices (except as above), they have their
 “option in which to serve.

“Sheriffs and Coroners are appointed annually,
 “but cannot serve more than four years suc-
 “cessively; nor can the Sheriff hold any other
 “Office.

“The Register, and Clerks in Chancery, are
 “appointed by the Chancellor; the Clerks of the
 “Supreme Court, by the Judges thereof; the
 “Clerk of the Court of Probates, by the Judge
 “thereof; and the Register and Marshal of the
 “Court of Admiralty, by the Judge thereof;
 “and they are to continue during the pleasure of
 “those who appoint them. Attornies, Solicitors,
 “and Counsellors at Law, are appointed by the
 “Court in which they practise—are licensed by
 “the First Judge, and regulated by the rules and
 “orders of such Court.

“ Where the continuance of any Officer is not
 “ ascertained by the Constitution, he continues
 “ during the pleasure of the Council of Appoint-
 “ ment, but the Puisne Judges of the County
 “ Court, and the Justices of the Peace, have
 “ new Commissions, at least, once in three
 “ years.

“ Town Clerks, Supervisors, Assessors, Con-
 “ stables, Collectors, and all other Officers for-
 “ merly eligible by the people, still continue to
 “ be elected by them, as the Act of the Legisla-
 “ ture directs; and Loan Officers, County Trea-
 “ surers, and Supervisors Clerks, are appointed
 “ as the law directs. Delegates to the Conti-
 “ nental Congress, are annually appointed by the
 “ Senate and Assembly: each House openly no-
 “ minates as many persons as are equal to the
 “ whole number of Delegates to be appointed:
 “ after the nomination, both Houses meet, and
 “ such as are named in both lists, are Delegates;
 “ and out of those names that are not in both
 “ lists, one half is chosen by joint ballot of both
 “ Houses so met together.

“ For the trial of impeachments and correction
 “ of errors, there is a Court, consisting of the Pre-
 “ sident of the Senate, and a majority of the Se-
 “ nators, the Chancellor, and Judges of the Su-
 “ preme Court. But where the Chancellor, or
 “ either of the Judges is impeached, he is
 “ suspended from his office until he is acquitted;
 “ and on an appeal from a decree in Chancery,
 “ or on a Writ of Error from the Supreme Court,
 “ the Chancellor, in the first case, and the Judges
 “ in the second, shall assign the reasons for the
 “ decree or judgment, as the case may be; but
 “ cannot vote for the affirmance or reversal.

“ The

“ The Assembly may impeach all Officers for
 “ mal or corrupt conduct; but two thirds of the
 “ members present must agree in the impeach-
 “ ment and judgment thereon; and previous to
 “ the trial, they must be sworn, “ truly and im-
 “ partially to try and determine the charge in
 “ question, according to evidence.” The judg-
 “ ment on impeachment, shall extend no farther
 “ than to removal from office, and disqualifica-
 “ tion to hold any place of honour, trust, or pro-
 “ fit; but the person convicted on impeachment
 “ may, nevertheless, be indicted, and punished
 “ according to law; and in every trial, on im-
 “ peachment or indictment, the defendant is al-
 “ lowed Counsel, as in other cases: and no mem-
 “ ber is to be disfranchised, or deprived of his
 “ rights, but by the law of the land, or the judg-
 “ ment of his Peers.

“ The Statute Laws of England and Great
 “ Britain, and the Acts of Assembly under the
 “ King’s Government, which together formed the
 “ law of New York, on 19th of April 1775, are
 “ the law of the State, but subject to alteration
 “ by the Legislature. The temporary Acts are
 “ to expire at the times limited, and all such
 “ parts of the common and statute law, and Acts
 “ of Assembly, as establish any denomination of
 “ Christians, or their Ministers, or which con-
 “ cern the allegiance to, or the sovereignty of
 “ the King of Great Britain, repugnant to the
 “ Constitution, are abrogated; but the Resolu-
 “ tions of the Provincial Congresses, and the
 “ Convention of the Colony of New York, not
 “ repugnant to the Constitution, are part of the
 “ law of the State, subject to the alteration of the
 “ Legislature. All grants by the King of Great
 “ Britain, or under his authority, after the 14th
 “ of

“ of October 1775, are declared void; but the
 “ Constitution does not affect any grant of lands
 “ or charter prior to that day; and all Officers
 “ who by charter were appointed by the King’s
 “ Governor, are now appointed by the Council of
 “ Appointment.

“ The free exercise of every religion is allow-
 “ ed; but no Minister or Priest of any denomi-
 “ nation can hold any civil or military office.

“ The militia is at all times to be armed and
 “ disciplined, as well in peace as war; and ma-
 “ gazines of warlike stores are to be established
 “ in every County. Quakers are excused from
 “ bearing arms; but must pay the State, in lieu
 “ thereof, such sums as the Legislature may
 “ direct.

“ The trial by Jury is to remain inviolate for
 “ ever; and no act of attainder is to be passed
 “ by the Legislature for crimes, except those
 “ committed before the termination of the war,
 “ and such Acts are not to work a corruption of
 “ blood.—The Legislature can institute no
 “ Courts, but what proceed according to the
 “ course of the Common Law.

“ The Legislature may naturalize all persons
 “ who settle in the State, become subjects of it,
 “ take an oath of allegiance to it, and abjure
 “ all foreign allegiance and authority in matters
 “ ecclesiastical and civil.”

NEW JERSEY.

The Constitution of New Jersey was established
 in the Provincial Congress at Burlington, in that
 Province, on 2d July 1776, by the advice of the
 Continental Congress, and was to be void if a
 reconciliation between Great Britain and the
 Colonies

76 *Constitution of the BRITISH COLONIES*

Colonies took place, otherwise to remain inviolable.

“ The Constitution vests the Government in a Governor, Legislative Council, and General Assembly.

“ The Governor is elected annually by a majority of votes of the Council and Assembly jointly, at their first meeting after their election.—He has the supreme executive Power, is constant President of the Council, and has a casting vote in their proceedings.—He is Captain-General and Commander in Chief, Chancellor, and Ordinary or Surrogate General.

“ The Vice-President is chosen by the Council, and, in the absence of the Governor, the Vice-President acts as Governor.

“ On the second Tuesday in October (with the power of adjournment from day to day) the inhabitants of each County worth L. 50 a piece, proclamation money, in clear estate, chose one Member of the Legislative Council, and three Members of Assembly, each of whom must have resided in the County a year next before his election; the Councillor must have at least L. 1000, proclamation money, and each Member of Assembly L. 500, like money, within the County; but the majority of Representatives in Council and General Assembly may add to, or diminish, the number or proportion of Members of Assembly for any County; so that the Representatives in Assembly are not less than thirty-nine.—The Council are, in all respects, a Free and Independent Branch of the Legislature, and have the like powers as the Assembly, except that they cannot prepare or alter a money bill. The Governor,

“ vernor, and three or more Councillors, make
 “ a privy Council: and the Governor, and seven
 “ of the Council at least, make a quorum, to
 “ determine appeals in the last resort, in all cases,
 “ as during the King’s Government; and they
 “ can pardon treason, felony, or other offences.

“ The Assembly chuse their own Speaker, and
 “ other Officers; are Judges of the qualifications
 “ of their Members; sit upon their own adjourn-
 “ ments; empower their Speaker to convene
 “ them when any extraordinary occurrence ren-
 “ ders it necessary; and prepare bills to be passed
 “ into laws. The Governor or Vice-President
 “ must convene the Council whenever the As-
 “ sembly sits; and the Speaker of the Assembly
 “ is, immediately after an adjournment, to give
 “ the Governor or Vice-President notice of the
 “ time and place to which the Assembly is ad-
 “ journed.

“ The laws run, “ Be it enacted by the Coun-
 “ cil and General Assembly of this Colony, and
 “ it is hereby enacted by the authority of the
 “ same.”

“ The Council and Assembly make the Great
 “ Seal, which is called “ The Great Seal of the
 “ Colony of New Jersey;” and is kept by the
 “ person that administers Government, to be used
 “ as occasion requires.

“ The Council and Assembly appoint the Judges
 “ of the Supreme Court for seven years, the
 “ Judges of the Inferior Court of Common Pleas
 “ in each County, Justices of the Peace, Clerks
 “ of the Supreme Court, Clerks of the Inferior
 “ Court of Common Pleas and Quarter Sessions,
 “ Attorney General, and Provincial Secretary
 “ for five years; and the Person that administers
 “ Government commissions them: but all those
 “ Officers

“ Officers may be re-appointed, and are liable to
 “ be dismissed, when adjudged by the Council
 “ to be guilty of misbehaviour, on impeachment
 “ of the Assembly. .

“ The Sheriffs and Constables are elected annually by the People; and the Sheriffs are commissioned by the Governor, or in his absence by the Vice-President; and all commissions and writs run thus, “ The Colony of New Jersey to A. B. greeting.” General and Field Officers of Militia are appointed by the Council and Assembly; the Captains and Subalterns are chosen by the Companies. .

“ All criminals are allowed witnesses and counsel; and indictments conclude, “ Against the peace of this Colony, the Government and dignity of the same.” The estate of a *felo de se*, or any thing occasioning death, are not forfeited.

“ No religion is established; and a person professing himself of any Protestant Sect, and demeaning himself peaceably, may hold any office, sit in either House of Legislature, and enjoy every other privilege; but no Officer, except a Justice of the Peace, can sit in the Assembly.

“ The Acts of Assembly, and so much of the common and statute law of England as were used in the King’s time, remain, till altered by the Legislature, except such parts as are repugnant to the Constitution; and the trial by Jury is to remain for ever.

“ Every Member of the Legislature, before he takes his seat, is sworn not to assent to any law repealing annual elections, and the trial by Jury; nor to alter those parts of the Constitution
 “ tion

“ tion which forbid the establishment of any one
 “ religion in preference to another, &c.”

PENNSYLVANIA.

The Constitution of the Commonwealth of Pennsylvania was established, agreeable to the direction of the Continental Congress, by the General Convention, held at Philadelphia from the 15th of July to the 28th of September 1776.

“ The Commonwealth or State of Pennsylvania
 “ is governed by an Assembly of the Represent-
 “ atives of the Freemen (who are vested with the
 “ Supreme Legislative power), and a President
 “ and Council (who are vested with the Supreme
 “ Executive power).

“ The President and Vice-President of the
 “ Council are chosen annually, by joint ballot
 “ of the Council and General Assembly. The
 “ Council is chosen by the Freemen of the State,
 “ who are twenty-one years old, have resided in
 “ the State a year next before the election, and
 “ paid taxes. And the sons of such Freemen,
 “ if twenty-one, vote, although they have not
 “ paid taxes.—Philadelphia, and each County,
 “ chuses one Councillor a-piece; and such a ro-
 “ tation was at first established, that a number will
 “ always remain in Council who are acquainted
 “ with business.—No Councillor can serve longer
 “ than three years successively, and he cannot be
 “ re-elected till the expiration of four years from
 “ his last service: each Councillor is a Justice of
 “ the Peace for the whole Commonwealth.—
 “ The President and five Councillors make a
 “ quorum, and appoint and commissionate Judges,
 “ naval Officers, Judge of the Admiralty, At-
 “ torney General, and such other civil and mili-

“ tary Officers as the General Assembly, or the
 “ people, do not chuse by the Constitution, or
 “ laws subsequent thereto.—They correspond
 “ with other States, transact business with the
 “ Officers of Government, and prepare matters
 “ to lay before the Assembly.—They determine
 “ on impeachments, taking the assistance of the
 “ Judges of the Supreme Court for advice only.
 “ —They can remit all fines, and pardon all
 “ crimes, except those prosecuted by impeach-
 “ ment (which can be remitted or mitigated by
 “ the Legislature only), and for treason and mur-
 “ der; the President and Council can reprieve,
 “ but not pardon, till the end of the Sessions of
 “ Assembly next after conviction.

“ The President and Council are to take care,
 “ that the laws are faithfully executed, the mea-
 “ sures agreed on by the Assembly expedited;
 “ and they are to draw on the Treasury for the
 “ monies appropriated by the Assembly.—They
 “ lay embargoes, prohibit the exportation of any
 “ commodity (in the recess of the Assembly only),
 “ not exceeding thirty days: they grant such li-
 “ cences as are directed by law; and, in cases of
 “ necessity, may call the General Assembly to-
 “ gether before the day they are adjourned to:
 “ they have a Secretary, keep fair books of their
 “ proceedings; and every Councillor may enter
 “ his dissent, and the reasons for it.—The Presi-
 “ dent is Commander in Chief of the Forces of
 “ the State; but cannot command in person,
 “ except with the advice of the Council, and so
 “ long as they approve of it; and in the absence
 “ of the President, the Vice-President administers
 “ that office.

“ The General Assembly of Representatives of
 “ the Freemen of Pennsylvania,” are annually
 “ chosen

“ chosen for the Cities and Counties by the Free-
 “ men by ballot, and must have resided in the
 “ place they represent for two years next before
 “ their election. An Assembly-man can serve
 “ only four years in seven, and can hold no other
 “ office except in the militia.—The General
 “ Assembly chuse their own Speaker, and other
 “ Officers, and the Treasurer of the State: they
 “ sit on their own adjournments; prepare bills,
 “ and enact them into laws; judge of the elec-
 “ tions and qualifications of their Members; can
 “ expel a Member, but not a second time for the
 “ same cause; administer oaths or affirmations,
 “ on examination of witnesses; redress griev-
 “ ances; impeach State criminals; grant Char-
 “ ters of Incorporation; constitute towns, bo-
 “ roughs, cities, and counties; and have all
 “ powers necessary for the Legislature of a free
 “ State; but cannot alter any part of the Con-
 “ stitution.

“ Two-thirds of the whole Members elected,
 “ make a House; and before they proceed to
 “ business, each must take an oath of allegiance
 “ to the State, and an oath not to injure or
 “ abridge the rights of the people; and must sign
 “ a declaration “ Of belief in one God, the Crea-
 “ tor and Governor of the world, the Rewarder
 “ of the good, and the Punisher of the wicked,”
 “ and “ an acknowledgment that the Scriptures
 “ of the Old and New Testament are given by
 “ Divine Inspiration;” which declaration is the
 “ only religious test required of any civil Officer
 “ or Magistrate.

“ The doors of the Assembly are to be open,
 “ except when the welfare of the State requires
 “ them to be shut; and the Yeas and Nays on
 “ any question (when it is not by ballot) are to

“ be taken down, if two Members require it,
 “ and the proceedings must be printed weekly :
 “ and that improper laws may not be enacted, all
 “ bills of a public nature are to be printed before
 “ they are read the last time, and are not to be
 “ passed into laws till the following Session, ex-
 “ cept on occasions of sudden necessity.—The style
 “ of the laws is, “ Be it enacted, and it is here-
 “ by enacted by the Representatives of the Free-
 “ men of the Commonwealth of Pennsylvania;
 “ in General Assembly met, and by the authority
 “ of the same :” and when a law passes, it is sealed
 “ with “ the Seal of the Laws of Pennsylvania,”
 “ which is kept by the Assembly, and not used
 “ for any other purpose: the wages of the Re-
 “ presentatives, and other State charges, are paid
 “ out of the Treasury.—Any Officer whatsoever
 “ may be impeached by the General Assembly,
 “ before the President and Council, who hear and
 “ determine the impeachment.

“ The Judges of the Supreme Court of Judi-
 “ cature have fixed salaries, and are commission-
 “ ated for seven years ; but can hold no other
 “ office, and may be re-appointed.—And that
 “ Court, as well as the several Courts of Common
 “ Pleas, have some of the powers of a Court of
 “ Chancery.—The Freemen in each County elect
 “ Justices of the Peace for seven years, and She-
 “ riffs and Coroners for one year ; and all elec-
 “ tions whatsoever are by ballot ; and all com-
 “ missions in the name and by the authority of
 “ the Freemen of the Commonwealth of Pennsyl-
 “ vania, under the State Seal (which is kept by
 “ the Council), signed by the President, and at-
 “ tested by the Secretary.

“ The trial by Jury remains ; all prosecutions
 “ are in the name and by the authority of the
 “ Freemen

“ Freemen of the Commonwealth of Pennsylv-
 “ vania; indictments conclude, “ Against the
 “ peace and dignity of the same;” and the style
 “ of all process is, “ The Commonwealth of
 “ Pennsylvania.”

“ Any foreigner, on taking the oath of al-
 “ legiance, may purchase and transfer land; after
 “ one year’s residence, is a free denizen; and
 “ after two year’s residence, may be elected a Re-
 “ presentative.

“ Delegates to the Continental Congress are
 “ chosen by ballot by the General Assembly an-
 “ nually, at their first meeting, can serve only
 “ two years successively, may be superseded at
 “ any time, and holding a Continental office,
 “ cannot be elected.

“ There is no Ecclesiastical Establishment;
 “ every mode of worship is allowed; and no
 “ man acknowledging the being of a God, is
 “ deprived or abridged of any civil right as a
 “ citizen.

“ On the second Tuesday of October, in every
 “ seventh year, the Freemen chuse two persons
 “ in each City and County, named the “ Council
 “ of Censors,” who may call a Convention, exa-
 “ mine into the conduct of the Legislative and
 “ Executive Branches, inquire into the laying
 “ and collecting of the taxes, send for persons,
 “ papers, and records, pass public censures, order
 “ impeachments, and recommend the repealing
 “ of laws that are contrary to the Constitution.
 “ —They continue only one year after election;
 “ but may call a Convention to meet in two
 “ years after their sitting, if there is a necessity of
 “ amending the Constitution.—But the proposed
 “ amendments must be promulgated six months
 “ before the Convention is elected, that the

“ people may consider of them, and instruct
“ their Delegates.”

DELAWARE.

The Government of the Counties of Newcastle, Kent, and Suffex, upon Delaware, are in all public and other writings, now called, “ The Delaware State ;” and the Constitution or System of Government was agreed to by the Representatives, in full Convention, on the 20th of September 1776.

The President, or Chief Magistrate, is chosen for three years (or until the sitting of the then next General Assembly) by joint ballot of the Legislative Council and House of Assembly; and the box is examined by the Speakers of both Houses, in the presence of the other Members; and if the numbers are equal, the Speaker of the Council has an additional casting voice; but the Governor cannot be re-elected until he has been three years out of that office; he has an adequate moderate salary whilst he continues; in case of his death, inability, or absence from the State, the Speaker of the Legislative Council is Vice-President, and if he is dead, disabled, or absent from the State, the Speaker of the House of Assembly has the powers of a President, until the General Assembly makes a new nomination.

The Governor draws for the money appropriated by the General Assembly, and is accountable to them for it.—With the advice of the Privy (or Executive) Council, he lays embargoes, or prohibits the exportation of any commodity (when the General Assembly is not sitting) for thirty days or less.—He can pardon

or reprieve (where the law does not forbid it), except the prosecution is carried on by the House of Assembly, and then the pardon or reprieve must be by a resolve of that House.—And the Governor may exercise all other Executive Powers of Government, where he is not restrained by the Constitution, or by law.

Four Privy Councillors (not in the Continental pay or service) are chosen by ballot, two by the Legislative Council, and two by the House of Assembly; and the accepting the office of a Privy Councillor vacates a seat in the Legislature.

A Privy Councillor continues only two years, and cannot be re-elected as such for the three next years, and they are ballotted out in rotation by the Legislative Council and House of Assembly.—The President convenes the Privy Council when and where he thinks most convenient; three Members make a quorum, their proceedings are entered on record, and signed by them, to be laid before the General Assembly when called for; and each Member may enter his dissent.—With the advice and consent of the Privy Council, the President embodies the militia, and acts as Captain-General and Commander in Chief of the military force of the State.

The Legislature is called “The General Assembly of Delaware,” and consists of two Branches, viz. “The (Legislative) Council,” and “The House of Assembly.” The Legislative Council is chosen by the Freemen for three years, and go out in rotation: it consists of Nine Members (three for each County), who must be upwards of twenty-five years old, and have a freehold in the County where chosen.

The House of Assembly is chosen by the Freemen annually, on the 1st of October, and consists

of twenty-one Members, seven for each County, each of whom must have a freehold where chosen.—Each House chooses its own Speaker, and other Officers; judges of the qualifications and elections of its Members; settles its own rule of proceedings; directs writs of election for supplying intermediate vacancies; can expel any Member for misbehaviour; but not a second time in the same Sessions, for the same offence; and both Houses have all other powers necessary for the Legislature of a Free and Independent State.—All bills and ordinances may originate, be altered, amended, or rejected, by either House, except money-bills, which must originate in the House of Assembly, but may be altered, amended, or rejected, by the Legislative Council.—Both Houses sit at the same time and place; and each House adjourns itself, of which each Speaker immediately gives the other notice. The President cannot prorogue, adjourn, or dissolve the General Assembly; but with the advice of the Privy Council, or on application of the majority of either House, he can call them together before the time to which they stand adjourned. The House of Assembly can impeach the President (when out of office), and all other Officers, before the Legislative Council, for mal-administration, &c. If the party impeached is found guilty, he may be disabled to hold any office, removed from it, or subjected to such pains and penalties as the law directs; and all Officers are to be removed, on conviction of misbehaviour by impeachment, or at common law; or if the General Assembly addresses for such removal.

The Sheriffs and Coroners are chosen annually by the Freemen; but the President and General Assembly, by joint ballot appoint the three Justices

Justices of the Supreme Court, the Judge of the Admiralty, and the four Justices of the Common Pleas and Orphan's Court, in each County, who continue during good behaviour, but can hold no other office; and the Common Pleas, and Orphan's Court, have the power of holding inferior Courts of Chancery, as in the King's time, until the Legislature directs otherwise.

The General Assembly appoints all the Officers in the army and navy; the Chief Justice of the Supreme Court appoints its Clerks; the Justices of the Common Pleas for each County appoint the Recorders of Deeds; and in case of a vacancy of any office, which is filled up by the President and General Assembly, the President and Privy Council may appoint till a new election.—The President commissions all Officers under the Great Seal of the State, which is made by the Legislative Council and Assembly, kept by the President, affixed to all Laws and Commissions, and used as occasion may require; the Commissions run in the name of "The Delaware State," and are tested by the President.

Every Member of the Legislature, and Officer, before he acts, takes an Oath or Affirmation of Allegiance to the State, and subscribes a Declaration of Faith "In God the Father, and in Jesus Christ his only Son, and the Holy Ghost, one God blessed for evermore; and acknowledges the Holy Scriptures of the Old and New Testament to be given by Divine Inspiration."—And Officers also take an oath of office.—But no religious Establishment is allowed; nor is any Clergyman or Preacher of the Gospel permitted to hold any civil office, or to be a Member of the Legislature.—And the enslaving of Negroes, &c. is disallowed.

The Common Law of England, the Acts of Assembly in force on the 15th of May 1776, and such parts of the Statute Law of England used in the King's time, as are not repugnant to the Constitution, continue in force until altered by the Legislature.—Writs run in the name of "The Delaware State," are tested in the name of the Chief Justice, and under the Seal of the Court from whence they issue: and indictments conclude, "Against the Peace and Dignity of the State." In place of an appeal to the King in Council, "The Court of Appeals" is instituted, consisting of Nine Members, *viz.* the President for the time being, and Three to be appointed by the Legislative Council, and Three by the House of Assembly, who continue during good behaviour; and the vacancies are supplied by new elections.

But no Member of the Legislature can hold any office, except that of a Justice of the Peace, which he is for the whole State; and the Justices of the Common Pleas are Conservators of the Peace in their respective Counties.

Delegates to the Continental Congress are annually chosen by joint ballot of both Houses of Legislature, who may supersede them within the year.

Some parts of the Constitution are never to be violated on any pretence; and the others not to be altered without the consent of five parts in seven of the Assembly, and seven Members of the Legislative Council.

MARYLAND.

MARYLAND.

The Constitution or form of Government of Maryland, was agreed to and passed in a Convention of the Delegates, held at Annapolis the 14th of August 1776.

The Governor is chosen annually on the second Monday of November, by joint ballot of the Senate and House of Delegates; each of whom must first take an oath, "To elect, without favour, &c. the Person he believes to be best qualified for the office."—The Governor must be above twenty-five years of age, have resided in the State above five years next before the election, own a freehold estate worth *L.* 1000, current money, and have a real and personal property there, worth in the whole *L.* 5000.—He cannot continue more than three years successively, nor be re-elected till the expiration of four years after he has been out of that office.—He must take an Oath of Allegiance to the State; subscribe a Declaration of Belief in the Christian Religion; take a second Oath, "That he will not receive any part of the profits of an office held by another, or arising on any agency, &c.;" and a third Oath, "That he will not vote for any Officer, through favour, &c. but for him that is best qualified, &c.; and that he neither has promised, nor will promise, his vote or interest in favour of any person."—And if he is convicted by two witnesses, of receiving any of the profits of an office held by another, whilst he is himself in office, his appointment is void, and he suffers the punishment of perjury, or is banished the State for ever, or disqualified for ever from holding

holding any office or place of trust or profit, as the Court may adjudge.

Upon the Governor's death, resignation, or removal out of the State, the first named of the Council qualifies himself, and acts as Governor; but must immediately call the General assembly together (giving not less than 14 days notice of their meeting), when a Governor is to be appointed for the residue of the year.

The Senators and Delegates (first taking such an oath as before choosing a Governor), do, on the 2d Tuesday of November yearly, by joint ballot, elect five to be the Council to the Governor, each of whom must be above twenty-five years old, have resided in the State above three years next before his election, and own a freehold therein worth above £.1000 currency.—The Council must take the same Oaths, and subscribe the same Declaration as the Governor; their Clerk (who is appointed by them) must take the Oath of Fidelity to the State, and also an Oath to keep secret such matters as the Board shall direct.—Their proceedings are entered on record, to be laid before either House of Legislature that calls for them; and the Governor, or any Member of the Board, may require the advice of the Council in writing, signed by them.—The Governor, with the advice and consent of Council, can embody the militia, and alone has the direction of it, and of the regular land and sea forces of the State, according to law; but he cannot command in person, unless the Council advise it, and then no longer than they approve of it.—Where the concurrence of the Council is not required, he may alone exercise all the other executive Powers of Government, according to law; he may reprieve or pardon, where the law does not forbid; during the recess

recess of the General Assembly, he may embargo shipping, and prevent the exportation of any commodity, not exceeding thirty days in a year; but he must call the General Assembly before the embargo expires, and he may compel quarantine, if there are strong grounds to suspect a vessel has the plague on board, or, that the place she came from, was infected with it. But the Governor is not, under any pretence, to exercise any power or prerogative, by virtue of any law, statute, or custom of England or Great Britain.

Three Councillors make a board; the Governor (and in his absence, the first named in the Council) presides there, and votes where the Council is divided; and in case of a vacancy in the Council, the Members, by ballot, elect another for the residue of the year.

The Governor, with the advice and consent of the Council, appoints the Chancellor, Judges, Attorney General, and Registers of the Land Office, during good behaviour; and naval Officers, those in the land and sea service, and militia, Surveyors, and all other civil Officers of Government (except Assessors, Constables, Overseers of the Roads, &c.) for one year; but removeable for misbehaviour on conviction in a court of law. The Sheriffs are elected by the Freemen every third year, and the registers of wills are recommended by both Houses of Legislature, and commissioned by the Governor. The Judges and Justices appoint their respective Clerks; but where an office (not in the appointment of the Governor) becomes vacant, the Governor, with the advice of Council, appoints and commissions, until another is elected, chosen, or recommended, as the case may be. The Council make the Great Seal of the State, which is
kept

kept by the Chancellor, and affixed to all laws, commissions, grants, and other public testimonials, as formerly; and all public commissions and grants, run in the name of "The State of Maryland, &c." are signed by the Governor, and attested by the Chancellor, except military commissions, which are not attested by the Chancellor, nor have the Seal of the State.

The Legislature consists of two branches, a Senate and an House of Delegates, which are styled, "The General Assembly of Maryland." The Senate is chosen in the following manner: On the first of September, in every fifth year, the Freemen above twenty-one years of age, that have resided in the County, where they vote, for one year next before the Election, and own a freehold of fifty acres therein, or have a property in the State, worth above thirty pounds currency, chuse two persons in each county (and one for Annapolis, and one for Baltimore) called Electors of the Senate, any twenty-four of whom may, out of their own body or the people at large, by ballot, elect fifteen Senators that are above twenty-five years of age, have resided in the State three years next before the Election, and have real and personal property there, worth one thousand pounds currency; but the Electors of the Senate, before they proceed, take an oath of fidelity to the State, and also an oath, "to elect without favour, &c. such persons for Senators, as in their judgment, &c. they believe best qualified for the office." But in case of a vacancy, the Senate elects another Senator for the residue of the five years; and they also chuse their President by ballot; and the President and a majority of the Senate make a House.

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The Senate judges of the Elections and qualifications of their Members, and any, except money bills (to which they can only assent or dissent) may originate there; and to (other than money) bills from the House of Delegates, they may assent, dissent, or propose amendments. And that the Senate may exercise their judgment in passing laws, and not be compelled to reject a money bill, the House of Delegates are not to blend with a money bill, any thing that does not immediately relate thereto: and to prevent altercation about such bills, the Constitution declares, That no bill imposing duties or customs for the mere regulation of commerce, or inflicting fines for the reformation of morals, or to enforce the execution of the laws, by which an incidental revenue may arise; but only bills assessing, levying, or applying taxes or supplies for the support of government, or the current expences of the State, or appropriating money in the Treasury, are to be deemed money bills.

The House of Delegates is chosen on the first Monday in October annually, by the Freemen, qualified as aforesaid to vote for Electors of the Senate. There are four Delegates for each County, two for the city of Annapolis, and two for the town of Baltimore; but as well the Delegates, as the Electors of the Senate for Annapolis, are chosen by the Burgesses. The Delegates must have resided in the County where chosen, one year next preceding the Election, be above twenty-one years old, and have real and personal property in the State worth five hundred pounds currency.

The House of Delegates chose their Speaker by ballot, and he and a majority of Members, make a House, who judge of the elections and qualifications

cations of the Delegates; and in case of a vacancy, the Speaker issues his Warrant for the Election of another Member, of which, at least, ten days clear notice must be given. The House of Delegates originate all money bills—propose bills to the Senate—receive bills offered by them, and assent, dissent, or propose amendments thereto—inquire, by oath, into all complaints, grievances, and offences, as the grand inquest of the State—commit for any crime to the public goal, till discharged by due course of law—expel a member for a great misdemeanor, but not a second time for the same offence—examine and pass all accounts of the State, relating to the collection or expenditure of the revenue, or appoint auditors to adjust them—call for persons, papers, and records—and direct the prosecution of all office bonds, made payable to the State.

They also imprison for a contempt in their view—obstruction to their proceedings—breach of privilege by arresting (on civil process) or assaulting a Member in the Session, or coming to or returning from it—assaulting or obstructing their Officers on duty, or a witness or other person, attending on, coming to, or going from the House—or rescuing a person committed by them: and the Senate exercises the same powers in similar cases.

The House of Delegates appoint a Treasurer for the Western, and another for the Eastern Shore, and also the Commissioners of the Loan Office during pleasure, but if a vacancy happens in the recess of the General Assembly, the Governor, with the advice of Council, appoints and commissions a proper person to fill up such vacancy, till the General Assembly meets, which they do annually on the first Monday of November.

member, and oftener, if necessary; and each House appoints its own Officers, and settles its own rules of proceeding. And the style of the laws, is, "Be it enacted by the General Assembly of Maryland," when a bill passes, the General Assembly, the Speaker of the House of Delegates presents it to the Governor in the Senate, who signs it, and affixes the Great Seal thereto in the presence of both Houses.

There is a Court of Appeals, composed of several persons, whose judgment is final in all appeals from the Court of Chancery, General Court, and Court of Admiralty; the Chancellor is appointed by the Governor (with the advice and consent of the Council) during good behaviour, and is removable only for misbehaviour, on conviction in a Court of Law, or address of the General Assembly. The superior Court of common law, which was formerly called the Provincial Court, is now called "the General Court," and has three Judges, who are appointed by the same authority, that appoints the Chancellor, continue during good behaviour, and are removeable only for misbehaviour, by conviction at law, or address of the General Assembly. All writs run in the name of "The State of Maryland;" and indictments conclude, "against the peace, government, and dignity of the State."

The trial by Jury remains, and the common law of England; and such English and British Statutes as were formerly used in the Courts of Law and Equity; and all Acts of Assembly, down to the first of June 1774 (except such as are altered by the Convention, &c.) remain in force, until amended or repealed by the legislature. There is no religious establishment, nor is any test required on admission into office, except the Oath of Fidelity to the State—the Oath
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of Office—and a declaration of Belief in the Christian Religion. A gift, sale, or devise to a Teacher of the Gospel, or to any religious Sect, or in trust for their support, and to go in succession, without leave of the Legislature, is void, except a sale, gift, &c. not exceeding two acres, for a Church, &c. or burying Ground; but the Churches, Chapels, Glebes, and other property belonging to the Church of England, at the time the Constitution was assented to, are to remain to the Church of England for ever.

No part of the Constitution is to be altered or abolished, unless the bill, for that purpose, passes the General Assembly, is published three months before the next Election, and is confirmed by the General Assembly in the first Session after the new Election of Delegates.

VIRGINIA.

The Constitution or form of Government of Virginia was agreed to in a General Convention, held at Williamsburgh, from the 6th of May to the 5th of July 1776.

The legislative, executive, and judiciary departments, are to be separate and distinct, so that neither is to exercise the powers properly belonging to the others; nor is any person to exercise the powers of more than one of them at the same time, except that the Justices of the County Courts are eligible to either House of Assembly.

The Governor or Chief Magistrate is chosen annually by joint ballot of both Houses of Assembly—he can continue no longer than three years successively, and is not eligible until four years after he has been out of office. He has an adequate, but moderate salary, and with the advice of the Council of State, exercises the executive powers

powers of Government, according to the laws of the Commonwealth; but is not, under any pretence, to exercise any power or prerogative, by virtue of any law, custom, or statute of England. But he may, with the advice of the Council of State, reprieve, or pardon, where the prosecution is not carried on by the Delegates, or the law otherwise directs; in which cases, no reprieve or pardon can be granted, but by resolve of the House of Delegates.

A Privy Council or Council of State, consisting of eight Members, is chosen by joint ballot of both Houses of Assembly, either from their own Members, or the people at large, to assist in the administration of Government. The Council, out of their own members, annually chose a President, who in the death or absence of the Governor from the Government, acts as Lieutenant Governor. Four Councillors make a board—their advice and proceedings are entered on record—signed by the Members present (to which either may enter his dissent), and are laid before the General Assembly, when called for. A sum appropriated by the Legislature is divided amongst the Councillors annually, in proportion to their attendance; and whilst Councillors, they cannot sit in either House of Assembly. Every third year, two Councillors are balloted out by both Houses of Assembly, and they are ineligible for the next three years; and all vacancies in the Council are supplied by new Election, by ballot of both Houses of Assembly. The Council appoints their own Clerk, who has a settled salary, and swears to keep secret such matters as the board directs. The Governor, with the advice of the Council, embodies the militia, and has the sole direction of them; and with the like advice

(and the recommendation of the respective County Courts) he appoints or suspends militia officers—orders a court martial, on complaint of misbehaviour or inability, and supplies vacancies, when happening in actual service—appoints Justices of the Peace—and approves of and commissions Sheriffs and Coroners, when nominated by the respective County Courts—and the Justices appoint the Constables.

The Judges of the Supreme Court of Appeals of the General Court, of the Chancery, and of the Admiralty, and the Secretary and Attorney General, are appointed by joint ballot of both Houses, during good behaviour, and the Treasurer for one year; but they are commissioned by the Governor, and all commissions and grants run in the name of, “The Commonwealth of Virginia,” are under the Seal of the Commonwealth, and tested by the Governor. The Governor (when he is out of office) the Judges of the General Court, and all other officers, are impeachable by the House of Delegates for mal-administration, corruption, or otherwise endangering the safety of the State. The Attorney General (or other person appointed by the House of Delegates) prosecutes the impeachment in the General Court, according to the laws of the land, unless the Judges of the General Court are the subjects of it, in which case, it is prosecuted in the Court of Appeals; and if the delinquent is found guilty, he is disabled to hold any office under Government, is removed from it *pro tempore*, or subjected to such pains or penalties as the law directs.

The two distinct branches, called “The Senate,” and “The House of Delegates,” form a complete

complete Legislature, and are named "The General Assembly of Virginia."

The Senate consists of twenty-four Members, thirteen constitute a House to proceed to business. For their Election, the different Counties are divided into twenty-four districts, and each County, in a district (at the time of electing Delegates) votes for one Senator, who is a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age. Within five days after the Election, the Sheriffs of each County meet; and, from the poll taken in their respective Counties, return, as a Senator, him who has the greatest number of votes in the whole district. To keep up this Assembly, by rotation, the districts are equally divided into four classes, and numbered by lot. At the end of one year, after the General Election, the six Members elected by the first division are displaced, and the vacancies occasioned thereby are supplied from such class or division, by new Election, in the manner beforementioned. This rotation is applied to each division, according to its number, and continued in due order annually.

The House of Delegates consists of two Representatives chosen for each County, and for the district of West Augusta annually; if actual residents or freeholders in the same, or those duly qualified according to law: and one Delegate or Representative is chosen annually for the city of Williamsburgh, one for the borough of Norfolk, and one for each of the other cities and boroughs, to whom the Legislature may in future allow a particular representation. But when a city or borough decreases so, that the number of Voters, for seven years successively, is reduced lower than

the number of Voters in some one County in Virginia, such decayed city or borough thenceforth ceases to send a Delegate or Representative to the General Assembly.

The right of suffrage in the Election of Members for both Houses, remains as it was at the time the Constitution was agreed to. Each House chooses its own Speaker—appoints its own Officers—settles its own rules of proceeding—and directs Writs of Election for supplying intermediate vacancies. All laws originate in the House of Delegates, may be approved of, or rejected by the Senate, or may be amended by them, with consent of the House of Delegates, except money bills, which in no instance can be altered by the Senate, but must be wholly approved of, or rejected by them. Either House of the General Assembly may adjourn itself. The Governor cannot prorogue or adjourn them during their Session, nor dissolve them at any time; but by advice of the Council of State; or on an application of a majority of the House of Delegates, he may, if necessary, call them before the time to which they stand prorogued or adjourned.

All escheats, penalties, and forfeitures, which formerly went to the King, now go to the Commonwealth, except such as the Legislature may abolish, or otherwise provide for.

Writs run "In the name of the Commonwealth of Virginia;" and are tested by the Clerks of the several Courts, out of which they issue. Indictments conclude, "Against the peace and dignity of the Commonwealth."

The territories contained within the Charters, erecting the Colonies of Maryland, Pennsylvania, North and South Carolina, are for ever confirmed to those Colonies respectively, with all rights

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whatsoever which Virginia might have thencefore claimed, except the free navigation and use of the Rivers Potomaque and Pokomogue, with the property of the Virginia shores and strands, bordering on either of the said rivers, and all improvements made or to be made thereon. The western and northern extent of Virginia, in all other respects, stands, as fixed by the Charter of King James I. in the year 1609, and by the treaty of peace between Great Britain and France in 1763, unless the Virginia Legislature should establish one or more Governments, westward of the Allegheny Mountains; and no purchases of lands are to be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

The Delegates to the Continental Congress are chosen annually, by joint ballot of both Houses of Assembly; and may, in the mean time, be superseded in the same manner.

NORTH CAROLINA.

The Constitution or form of Government of North Carolina was agreed to, and resolved upon, by the Provincial Congress assembled at Halifax, December 18, 1776,

The Governor, and seven Councillors of State (to advise him in the execution of his office) are annually elected by the Senate and House of Commons jointly, by ballot, at their first meeting after each annual Election. The Governor is Captain General and Commander in Chief of the Militia; and, in case of his death, inability, or absence from the State, the Speaker of the Senate exercises the powers of Government; and in case of his death, &c. the Speaker of the House of Com-

mons, until the return of the absentee, or a new nomination by the House of Commons. Four Councillors make a quorum, their advice and proceedings are entered on a journal, and signed by the Members present, who may either of them enter his dissent to any part of it; and the journal is to be laid before the General Assembly when called for, in which no Councillor can sit. The Governor draws for, and applies such monies as are voted by the General Assembly for the contingencies of Government, and is accountable to them for the same. With the advice of the Council of State, he lays embargoes—prohibits the exportation of any commodity in the recess of the General Assembly, not exceeding thirty days at a time—grants pardons and reprieves (except where the prosecution is carried on by the General Assembly, or the law directs otherwise; and, in that case, he may, in the recess of the General Assembly, reprieve until they sit again), and exercises all the other executive powers of Government, as limited by the Constitution and laws of the State.

The legislative authority is vested in two distinct branches, “a Senate,” and “House of Commons,” both dependent on the people.

The Senate is composed of Representatives annually chosen by ballot, one for each County in the State, by the Freemen, aged twenty-one, who have resided within the State a year next before the Election, and own fifty acres of land apiece at the time of the Election, and had it for six months next before.

And Freemen who have paid public taxes, and are, in other respects, qualified as above-mentioned (except as to land, which is not necessary) annually chose by ballot two Members

of the House of Commons for each County (in which the Voters reside), and one Member for each of the Towns of Edentown, Newbern, Wilmington, Salisbury, Hillsborough, and Halifax. But each Member of the Senate, and of the House of Commons, must have usually resided one year next before the Election, in the County in which he is chosen; and the Senator must own, at least, three hundred acres of land in fee; and the Commoner, at least, one hundred acres in fee or for life, and must have had it for six months next before the Election.

"The Senate," and "The House of Commons," assembled for the purpose of legislation, is denominated, "The General Assembly."

Each House chooses its Speaker and other Officers—judges of the qualifications and elections of its Members—sits upon its own adjournments from day to day—and prepares bills to be passed into laws. The two Houses direct Writs of Election for supplying intermediate vacancies; and also, jointly, by ballot, adjourn themselves to any future day and place. All bills are read three times in each House, and signed by the Speakers of both Houses, before they pass into laws. And neither House can proceed to business, unless the majority of the Members is present. Every Member of the Legislature, before he sits, must take an oath to the State; and every one appointed to an office, before he enters on the execution of it, must take an oath to the State, and an oath of office.

The Senate and House of Commons, by joint ballot, appoint Judges of the Supreme Courts of Law and Equity—Judges of the Admiralty and Attorney General (during good behaviour)—Generals and Field Officers of the Militia—and

all Officers of the regular army of the State—Treasurers for the State (annually)—and a Secretary for three years.

No receiver of public money, till accounted for and paid, can sit in the Legislature, or hold an office—and no Treasurer—regular Officer in the Army or Navy—Contractor or Agent for supplying them—Judge of the Supreme Court of Law or Equity—Judge of the Admiralty—Secretary of the State—Clergyman or Preacher of the Gospel—or person that denies the Being of God, the truth of the Protestant Religion—the divine authority of the Old or New Testament, or that holds religious principles incompatible with the freedom and safety of the State, can sit in the Legislature or Council. And a person coming within the above description of an Infidel, or of holding religious principles dangerous to the State, is also incapable of any office in the civil department.

Justices of the Peace are recommended by the Legislature, and hold during good behaviour; and they, and all other officers are commissioned by the Governor. The Commissions run “in the name,” and under “the Great Seal of the State of South Carolina,” and are tested and signed by the Governor. No person can hold more than one lucrative office at a time; but the appointments of Militia Officers, and Justices of the Peace, are not considered as lucrative.

The Governor, and any other Officer, may be prosecuted, on impeachment of the General Assembly, or presentment of the Grand Jury, of any Supreme Court.

All Writs run, “In the name of the State of North Carolina,” and are tested and signed by the Clerks of the respective Courts: and indictments

ments conclude, "Against the peace and dignity
"of the State."

The Legislature is to regulate entails, so as to prevent perpetuities. The declaration of rights, and the trial by Jury are to remain inviolable. There is no religious establishment, but every mode of worship is tolerated. Foreigners settling in the State, and taking an oath of allegiance to it, may hold real estate, and after a year's residence, are deemed free citizens.

Delegates to the Continental Congress are annually chosen by ballot of the General Assembly, and may be superseded, in the mean time, in the same manner, and cannot be elected for more than three years successively.

The limits of the province are ascertained; but the legislature is not prevented from establishing one or more governments to the westward.

The titles of persons holding under the laws formerly in force, or under grants made by King George the Second, or his predecessors; or the Lords Proprietors are not affected by the Constitution.

SOUTH CAROLINA,

On the 26th day of March 1776, a Constitution or form of Government was agreed to by the Provincial Congress of South Carolina, and "established until an accommodation between
"Great Britain and America could be obtained."

But on the 19th Day of March 1778, an Act was passed by the President and Commander in Chief, the Legislative Council, and General Assembly, intituled, "An Act for establishing the
"Constitution of the State of South Carolina,"
which

which recites, that the Constitution in 1776 was only temporary—that the United Colonies of America were constituted independent States, by the declaration of the Continental Congress of 4th July 1776; and that it therefore became necessary to frame a Constitution suitable to that event. It then proceeds to enact, that the articles in that Act, agreed upon in General Assembly, are to be the Constitution and form of Government of the State, unless altered by the legislative authority.

By that Act, the style of the Country is thereafter to be, "The State of South Carolina;" and the legislative authority is vested in a General Assembly, consisting of two distinct bodies, "A Senate," and "A House of Representatives," who at their first meeting after each Election, jointly, by ballot, chose (from among themselves, or the people at large) a Governor and Commander in Chief, a Lieutenant Governor (both of them for two years)—a Privy Council of eight Members for two years (half of whom are elected yearly), all of whom must be of the Protestant Religion. Each of them must have a freehold of the clear value of 10,000*l.* currency; the Governor and Lieutenant Governor must have resided in the State for ten years; and each of the Councillors for five years, next preceding his Election, and on their Election, they must respectively take an oath of qualification in the House of Representatives. There must be a majority of both Houses present to elect a Governor or Lieutenant Governor. The executive authority is vested in the Governor and Commander in Chief (who serves two years, and cannot be re-elected till the end of four); but he cannot adjourn, prorogue, or dissolve the General Assembly

sembly; however (with the consent of the Privy Council) he may, if necessary, convene them before the time, to which they stand adjourned. He cannot commence war, conclude peace, or enter into final treaty, without the consent of the Senate and House of Representatives; but, with the consent of the Privy Council, he may, in the recess of the General Assembly, lay embargoes, or prohibit the exportation of any commodity, not exceeding thirty days.

If the Governor is impeached, or his place vacated by removal, death, &c. the Lieutenant Governor succeeds him for the remainder of the time; and the Privy Council chooses another Lieutenant Governor out of their body. And if the Lieutenant Governor is impeached, or his place vacated by removal, death, &c. the Privy Council chose one of themselves to succeed him for the remainder of the time, or till a new nomination by the General Assembly.

The Privy Council consists of the Lieutenant Governor and the eight Councillors, five of whom make a quorum, to advise the Governor and Commander in Chief, when required; but he is not bound to consult them, unless the law directs it. If, during the recess of the General Assembly, a Councillor dies, or departs the State, the Privy Council chose one in his room, until the Legislature nominates another. The Clerk of the Privy Council keeps a regular journal of their proceedings, to be laid before the Legislature when required by either House; and any Councillor, that desires it, may enter his opinion, with the reasons at large. The Governor may, under his hand and seal, empower a Councillor to act in his room, where he and the Lieutenant Governor are sick or absent from the seat of Government,

vernment, and whilst such Councillor acts for the Governor, he does not vacate his seat in the Legislature or Privy Council; but no Military Officer, Judge or Father, Son or Brother of the Governor, can be a Privy Councillor.

On the last Monday in November, in every second year, the Senators, and the Members of the House of Representatives, are chosen for the Parishes and Districts (to meet on the first Monday in January following), by free white Men, who acknowledge the being of a God, believe in a future state of Rewards and Punishments, have attained twenty-one years of age, and have resided in the State one year before the election.—And each Voter must have a freehold of fifty acres of land, or a town lot, and owned it for six months before the election; or must have been taxed for six months before the election, in a sum equal to that raised on fifty acres of land. Any Elector, if required, must take an Oath or Affirmation of his qualification.

Every Senator, and every Member of the House of Representatives, must be a Protestant; the Senator must be thirty years old, and have resided in the State at least five; and if he resides in the parish or district where chosen, he must have a freehold worth *L.* 2000 currency, clear of debt; and if he does not reside there, he must have a freehold in the parish or district where elected, worth *L.* 7000 currency, clear of debt.

A Member in the House of Representatives, must have resided in the State three years previous to his election, and if he does not reside in the parish or district where chosen, he must have a freehold there worth *L.* 3500 currency, clear of debt.

Thirteen

Thirteen Senators make a quorum; but the President, or any three Members, may adjourn from day to day. Not less than sixty-nine Members make a House of Representatives to do business; but the Speaker, or any seven Members, may adjourn from day to day.

The Senate and House of Representatives meet at the Seat of Government, unless war or sickness renders it unsafe; in either of which cases, the Governor, with the consent of the Privy Council, may, by proclamation, appoint a more convenient place.

All money-bills for the support of Government, originate in the House of Representatives; the Senate cannot alter or amend them, but may reject them; and no money can be drawn out of the Public Treasury but by the legislative authority of the State. All other bills and ordinances may take their rise in the Senate or House of Representatives, and may be altered, amended, or rejected, by either of them. Acts and ordinances, when passed the General Assembly, have the Great Seal affixed to them by a joint Committee of both Houses, who wait on the Governor to receive and return the Seal.—They are then signed in the Senate House, by the President of the Senate, and the Speaker of the House of Representatives; and from that time have the force of a law, and are lodged in the Secretary's Office.

The Senate and House of Representatives respectively, enjoy all other privileges which the Commons House of Assembly at any time claimed, or exercised.—Neither House hath power to adjourn itself longer than three days at a time, with the consent of the other.—The Governor can neither adjourn, prorogue, or dissolve them; but
with

with the consent of the Council, he may, if necessary, convene them before the time to which they stand adjourned.—If a bill hath been rejected by either House, it cannot be brought in again the same Session, without leave of the House, and six days previous notice.—Each House chuses its own Officers by ballot; and during a recess, the President of the Senate, and the Speaker of the House of Representatives, on giving not less than three weeks, nor more than thirty-five days notice of election, issue writs for filling up, in their respective Houses, vacancies occasioned by death.

A Member of either House accepting any appointment, but that of a Militia Officer or Justice of the Peace (except where he acts for the Governor, in his absence or sickness) vacates his seat; but may be re-elected, if he is not Secretary of State, a Commissioner of the Treasury, an Officer of the Customs, a Register of Mesne Conveyances, a Clerk of a Court of Justice, a Sheriff, a Powder-Receiver, a Clerk of the Privy Council, or either House of Legislature, Surveyor-General, or Commissary of Military Stores, neither of whom can sit in either House of Legislature.

The Senate and House of Representatives jointly, nominate the Justices of the Peace during pleasure, and all other Judicial Officers (except those of the Court of Chancery, of which the Lieutenant-Governor, and a majority of the Privy Council are Judges), during good behaviour (but removable on address of the Senate and House of Representatives); the Sheriffs for two years, two Commissioners of the Treasury, the Secretary of the State, the Registers of Mesne Conveyances, the Attorney-General, Surveyor-General, Powder-Receiver, Collectors and Comptrollers

rollers of the Customs for two years, and all Officers in the Army or Navy above the rank of Captain.

But all these Officers are commissioned by the Governor, who, with the consent of the Council, appoints all other necessary Officers during pleasure, and fills up the vacancies in those which are in the appointment of the Legislature, until they elect others.

Every civil and military Officer, before he acts, must take an Oath, "Acknowledging South Carolina to be a Free, Independent, and Sovereign State *; abjuring the King of Great Britain, swearing to defend the State against him, his heirs, successors, abettors, &c. (to the utmost of his power), and to serve the State with fidelity and honour."

The House of Representatives can impeach all Officers of the State, for mal and corrupt conduct, who are not amenable to any other Jurisdiction; but two-thirds of the Members present must consent to it; the Senators, and such Judges of the State as are not Members of the House of Representatives, try the impeachment, and take an Oath, "Truly and impartially to try and determine the charge in question, according to evidence." Two-thirds of the Members present must agree in every judgment, except that of acquittal, and the party accused is allowed counsel.

All Persons and religious Societies are tolerated, who acknowledge one God, a future state of rewards and punishments, and that God is publicly

* I shudder when I read this Oath, which many in South Carolina must abhor; but as the King has not a more loyal Servant than I am, I hope I shall not be blamed for setting out the substance of the Oath in this Publication.

to be worshipped.—But none except Christian Protestants (of all denominations) are established, and they enjoy equal religious and civil privileges.—The respective Societies of the Church of England continue incorporated; and they and all other religious Societies hold the property they possessed at the time the Act was made.—And whenever fifteen male Protestants, not under twenty-one years of age, agree to unite in a Society, for the purposes of religious worship, they shall (on complying with the terms thereafter mentioned) be constituted a Church, and regarded in law as of the Established Religion of the State; and on a petition to the Legislature shall be incorporated, and enjoy equal privileges. But every such Christian Society must give itself a name, by which it shall be called and known in law; and all that associate with them for the purposes of worship, shall be esteemed as belonging to the Society so called. But previous to the Establishment and Incorporation, every such Society must subscribe in a Book the following five Articles, or else it cannot entitle itself to be incorporated and esteemed as a Church of the Established Religion of the State.

1st, That there is one eternal God; and a future state of rewards and punishments.

2d, That God is publicly to be worshipped.

3d, That the Christian Religion is the true religion.

4th, That the Holy Scriptures of the Old and New Testament are of Divine Inspiration, and are the Rule of Faith and Practice.

5th, That it is lawful, and the duty of every Man, being thereunto called by those that govern, to bear witness to truth.

But

But it is provided, that every one, when called to make an appeal to God, as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience.

The majority of every religious Society, or the persons appointed by them, have a right of electing their own Clergy; but no Minister can officiate until he has subscribed the above Five Articles, and also made and subscribed the Declaration set forth in the Constitution.—And no Minister of the Gospel, or public Preacher of any religious persuasion, is eligible as Governor, Lieutenant-Governor, a Member of the Senate, House of Representatives, or Privy Council, nor till two years after he has ceased to exercise his pastoral function.

The Delegates to the Continental Congress are annually chosen by joint ballot of the Senate and House of Representatives, and no Member of the Legislature vacates his seat on being chosen a Delegate.

No part of the Constitution can be altered, without ninety days previous notice, and the consent of a majority of the Members of the Senate and House of Representatives.

GEORGIA.

Few Countries have undergone so many changes as Georgia has, in the course of fifty years. His late Majesty King George the Second, by Letters Patent of the 9th of June, in the fifth year of his reign (which was 1732), granted seven-eighths of all the lands, from the Northern Stream of the River Savannah along the Sea-coast, to the most Southern Stream of the River Alatomaha, and

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Westward,

Westward, in direct lines, to the South Seas, and all the Islands to the East within twenty leagues of the coast, to the Trustees for establishing the Colony of Georgia in America, and their successors; and erected those territories into one independent and separate Province, by the name of Georgia, with a power of Legislation, &c. in the Trustees for twenty-one years, when such form of government was to be established, as the King or his successors should appoint, and should be agreeable to law.

Mr. Oglethorpe (now the Senior General in his Majesty's service), was the first Trustee's Governor of Georgia. He arrived with the Settlers from England at Beaufort in South Carolina on the 20th of January 1732-3, Old Style, and in Georgia in February following.

On their landing they met only one white man, who was an Indian trader; for although the country now called Georgia was included in the Charters of the Lords Proprietors of Carolina, and grants had from time to time been made of lands on the South side of the River Savannah, yet the Indians had either cut off or driven away those who attempted to settle them: but there were several Indians settled at a place called Yamacraw, within a quarter of a mile of the spot where the town of Savannah now stands. Those Indians received General Oglethorpe and the Settlers with great courtesy, and permitted them to settle in the country; for the General shewed great address in conciliating the affections of the Indians, and no disturbances happened between them and the white people, until after General Oglethorpe left the country.—When I went to Georgia in the year 1769, some of the first Settlers were alive,
from

from whom I learned several facts relative to the first settlement of that country.

The Trustees, during their Government of Georgia, enacted three laws for that country: one of them was a law to prevent the importation of negroes and rum; and another of them was a law for the purpose of regulating the trade with the Indians, and laying a tax on the Indian traders, for defraying the charge of the salaries allowed by the Trustees to their Officers in Georgia: and the Colony, which was thus taxed by a law enacted by the Trustees Council at a Tavern in London, afterwards denied the right of Parliament to tax the Colonies, and joined in the Civil War.

On the 20th of June 1752, the Trustees surrendered their Charter to his late Majesty King George the Second; but he being then in Hanover, the Lords Justices continued the form of Government by a President and Assistants (under his Majesty), until the King should make other provision for the government thereof: and on the 6th of August 1754, John Reynolds, Esq; a Captain in the Navy, was appointed the first King's Governor of Georgia, who arrived there the October following, and took upon himself the government of the Province on the 30th of that month.

Georgia made but little progress in population and agriculture during the government of Mr. Reynolds, and his immediate successor Mr. Ellis; but under the long administration of Sir James Wright, the last Governor, it made such a rapid progress in population, agriculture, and commerce, as no other country ever equalled in so short a time.—By his Majesty's Proclamation of the 7th of October 1763, the lands between the

rivers Alatomaha and St. Mary were annexed to Georgia, which made it a better rice Colony than South Carolina, as it then contained more good River Swamp.

The disturbances broke out in the other Colonies some time before they reached Georgia, there being a greater proportion of Loyalists in that Province than in any other of the Thirteen Colonies: and it was not till the 18th of January 1776, that the Governor and Council were made prisoners, and the King's Government was totally subverted there.—Georgia continued in possession of the Americans until the 29th of December 1778, when his Majesty's forces under Lieutenant Colonel Campbell landed there, and on the same day took possession of Savannah the capital, and its neighbourhood. On the 4th of March 1779, the King's Civil Government was re-established in Georgia, by proclamation; and matters bore a promising appearance until the 12th of September following, when the Count D'Estaing landed there, and on the 16th summoned the Town of Savannah to surrender to the arms of France. On the 9th of October following the besiegers, consisting of about 4500 French, and 2500 Americans, were repulsed with considerable loss.—On the the 19th of October, the enemy quitted the lines before Savannah, and on the 21st the French embarked, and the Americans marched off to South Carolina.

During the siege of Savannah, the enemy plundered the country of most of the moveable property; and the Town of Savannah was greatly injured by a heavy fire of cannon and mortars, for several days: but notwithstanding the reduced state of the country, and the frequent incursions of the enemy by sea and land, the inhabitants began

began to plant their lands ; and the King's loyal subjects flattered themselves that a few years would restore the Province to the flourishing state it was in before the civil war, until the melancholy news of Lord Cornwallis's capitulation at York Town reached Savannah, on the 9th of November 1781, and reduced the inhabitants almost to a state of despair.—To add to their affliction, an express arrived at Savannah from Charlestown, on the 5th of December following, with an account of the enemy's marching in force against Savannah ; and the names of several were mentioned whom the Americans intended to put to death when they entered the town.—Fortunately for the Loyalists, the enemy was not so numerous as they at first expected ; but soon afterwards the communication between Savannah and the country was for the most part cut off.—On the 14th of June 1782, orders were received at Savannah from the Commanding Officer at Charlestown, for the evacuation of Georgia ; but the news did not transpire till the following day. Nothing could exceed the distress to which the Loyalists were then reduced ; they had no other alternative but that of leaving the country with the loss of their property (for little besides negroes could be carried off), or of staying behind with the prospect of the harshest treatment from an enraged enemy.—The embarkation took up some weeks ; the heat of the weather was extreme ; few evenings passed without a violent gust of thunder and rain.—The Loyalists were encamped on a small sandy Island, called Tybee, where there was no good water ; and the flies and mosquitos abounded beyond description.—To add to their affliction, many were apprehensive of being left behind, for want of shipping to carry them away : in this situa-

tion several died daily, from the heat of the season, and the drinking unwholesome water.—The Editor returned to Georgia on the 14th of July 1779, and was not out of that Province until he left it on the evacuation, which took place the 24th of July 1782, when the last division of transports sailed. He was a witness of several melancholy scenes that happened there in the course of those three years; and if he is not out of pocket by this work, he means, with God's leave, to publish a Narrative of the troubles that happened in Georgia, as well before the Crown Officers left that Province, on the subversion of the King's Government in 1776, as from his return to Georgia in 1779, until the evacuation thereof in 1782, having kept a diary of what passed; the whole of which he has now by him, except one volume, containing a period of some months, which was burned in his quarters during the siege of Savannah.

In the following account of the Constitution of Georgia, I have taken notice of several material circumstances, in which it differs from that which prevailed when it was under the Government of the King of Great Britain.

On the 20th of April 1776, the Provincial Congress in Georgia made several orders and regulations (which were to continue for six months, or until the further order of the Continental Congress), by which they appointed a President or Commander in Chief, a Council, Judges, and other Officers, and fixed the salaries they were to receive. They also directed, that the Common and Statute Law, and Acts of Assembly then-fore in force in Georgia (which did not interfere with their proceedings, or those of the Continental

tal Congress) should continue, until otherwise ordered.

And the Constitution of the State of Georgia was unanimously agreed to in Convention (in consequence of the recommendation of the Continental Congress, and their declaration of Independence), on the 5th of February 1777.

Whilst Georgia continued under the King's Government, the Governor was appointed by his Majesty during pleasure, as in all the other Provincial Establishments or King's Governments; but now the State Governor is chosen annually (by ballot) by the Representatives of the People, on the 1st day of their meeting; he must have resided three years in the State, and is eligible only one year in three. The King's Governor was Captain-General and Governor in Chief in and over the Province of Georgia, and Chancellor, Vice-Admiral, and Ordinary of the same; and was styled "His Excellency." The State Governor is Captain-General and Commander in Chief over all the Militia, and other Military and Naval Forces belonging to the State, and is styled "His Honour." The King's Governor was the first branch of the Legislature, had a power of rejecting all bills offered to him for his assent, issued writs for the electing Representatives to sit in the Commons House of Assembly, and convened, adjourned, prorogued, and dissolved both Houses of Legislature, except that from Saturday to Monday they might adjourn themselves.—The State Governor has not the least share in the Legislative Power; he cannot adjourn, prorogue, or dissolve the House of Assembly; but with the advice of the Executive Council, he has power to call them together upon any emergency, before the time to which they stand adjourned.—

OF THE BRITISH COLONIES

The Governor was Councillor of the Province. The Governor has no judicial power. — The King's Governor was Vice-Admiral of the Province, and, on occasion required, had the powers and authorities vested in him by the British Act of Vice-Admiral.—It does not appear in the Constitution that the State Governor has the title; he commands the Province in the State, and, as I apprehend, has the powers of privy sealers, &c. The King's Governor was Ordinary of the Province, and as such had the power of all Benefices, and granted Letters of Administration, and Letters of Administration.—The State Governor has the power of all Benefices, for every religious Sect has a Minister; and there is now a Register of Ministers in each County, for proving the power of all Benefices, and Letters of Administration.—The King's Governor had the appointment to all the offices of the Province, until his Majesty's pleasure should be known, and his appointments to the offices were never superseded by the State Governor. The State Governor has only the appointment of the Militia Officers, during good behaviour, and commissions, civil and military, and the power of the Province; and he can fill up the vacancies till the ensuing Election. The King's Governor was, in some instances, directed by his instructions, and in some cases by the Act of Assembly, from doing certain things for the Government, without the advice of the Council, but there were cases in which it was not necessary.—It does not appear in the Constitution, that the State Governor has the Executive Act of Government without the advice of the Executive Council.—The King's

King's Governor could pardon all crimes except treason and murder ; and there he could only reprieve : he could remit no fine above ten pounds ; but he could suspend the payment of it until the King's pleasure was known.—The State Governor can neither pardon a crime nor remit a fine ; but he may reprieve a criminal, or suspend the payment of a fine, until the Assembly meets, with whom the power of pardon and remission lies.—The King's Governor could reside in that part of the Province which he thought most convenient for transacting the public business, and might direct the Legislature to meet there.—The State Governor must reside at such place as the House of Assembly for the time being shall appoint ; but he is empowered, with the advice of the Executive Council, to exercise the executive powers of Government, according to the laws of the State, and the Constitution thereof. And he and every other Officer of the State is liable to be called to account by the House of Assembly.

The oaths taken by the King's Governor are set forth in the following part of this Work.—The State Governor takes the following oath,
 “ I A. B. elected Governor of the State of
 “ Georgia, by the Representatives thereof, do
 “ solemnly promise and swear, That I will, during
 “ the term of my appointment, to the best of
 “ my skill and judgment, execute the said office
 “ faithfully and conscientiously, according to law,
 “ without favour, affection, or partiality : That
 “ I will, to the utmost of my power, support,
 “ maintain, and defend the State of Georgia,
 “ and the Constitution of the same ; and use my
 “ utmost endeavours to protect the people there-
 “ of in the secure enjoyment of all their rights,
 “ franchises, and privileges ; and that the laws
 “ and

“ and ordinances of the State be duly observed ;
 “ and that law and justice, in mercy, be executed
 “ in all judgments. And I do farther solemnly
 “ promise and swear, That I will peaceably and
 “ quietly resign the Government to which I have
 “ been elected, at the period to which my conti-
 “ nuance in the said office is limited by the Con-
 “ stitution. And lastly, I do also solemnly swear,
 “ That I have not accepted of the Government
 “ whereunto I am elected, contrary to the Ar-
 “ ticles of this Constitution.—So help me God.”

This Oath is to be administered to the Gover-
 nor by the Speaker of the Assembly: and the
 Constitution directs the same Oath to be admi-
 nistered by the Speaker to the President of the
 Council.—Now it seems strange how the President
 of the Council can swear, “ That he is elected Go-
 “ vernor of the State of Georgia,” or that he will
 “ execute the said office,” &c.—The Governor’s
 Oath is part of the Constitution, and is set out in
 it.—The Speaker of the Assembly is, by the Con-
 stitution, directed to administer the same Oath
 (that is the Governor’s Oath) to the President
 of the Council.—The Speaker of the House of
 Assembly (as well as every other Member of that
 House) swears, “ That he will execute the trust
 “ reposed in him, to the support of the Consti-
 “ tution, &c.” And the last Article of the Con-
 stitution says, “ That no alteration shall be made
 “ in this Constitution, without Petitions from a
 “ majority of the Counties, and the Votes in each
 “ County within the State: and then the As-
 “ sembly is to order a Convention to be called
 “ for that purpose, specifying the alterations to
 “ be made, according to the Petitions preferred
 “ to the Assembly by the majority of the Coun-
 “ ties

“ties as aforesaid.” I cannot conceive how these contradictions are to be reconciled.

The King’s Council consisted of Twelve Members in Ordinary, and Two extraordinary Members, who were appointed by the Crown (during pleasure), either by Mandamus to the Governor, commanding him to admit them as such, or else their names were inserted in the King’s instructions to the Governor: but when, by means of death, or absence, the number of Councillors in the Province was less than seven, in that case the Governor could fill up the vacancies, so as to increase the number of resident Members to seven, until the King’s pleasure was known. If the Governor was dead, or absent from the Province, the Lieutenant-Governor took the command,—was styled “His Honour,” and had half the salary and half the fees whilst he administered government; but when the Governor was on the spot, the Lieutenant-Governor had no salary or perquisite. If the Governor and Lieutenant-Governor were both of them dead, or absent from the Province, then the senior Member of the Council in Ordinary administered Government, and had the same allowance as the Lieutenant-Governor, whilst his command continued. But neither of the two extraordinary Members of the Council (who were the Surveyor-General of the Customs, and the Superintendent-General of Indian Affairs), altho’ senior in the Council, could administer government in the absence of the Governor and Lieutenant-Governor; for in that case the command devolved on the Senior Member of the Council in Ordinary.

The State (Executive) Council are chosen by the Representatives of the People, out of their own body, by ballot, on the first day of their meeting

THE BRITISH COLONIES

number of Members, and the number of Members in each County, in the Representatives of each County, that is, one Member for every three thousand of the Inhabitants; but if a County has less than three thousand Inhabitants, then the House of Representatives sends no Councilors for that County; and, therefore, as the Counties increase in Inhabitants, the number of Councilors encreases in proportion.

The Council was one of the three branches of the Legislature, and then styled itself the Council of the Colony; it was also the principal Council of the Governor, to assist him with advice in the administration of government. The Council consisted of seven or a Council; but if the Governor was not on the spot, then three Members were sufficient; or either of those purposes, the Council, they met whenever the Governor thought proper to summon them, and the Governor presided, and received answers to them for their advice thereon. The Council met at the same time and place as the House of Assembly did, and the Governor presided, if he was one of the Members; or, if not, he presided; but if the Governor was not in the House, the Council met in the Council present, sat as the Council of the House.

The Council is merely an executive body, and has no power in the administration of government, and they have no further concern in the Legislature, than that all laws must be sent to them after the second reading, and they are to give their advice thereon, and give their remarks, to the Assembly; but the sole power of Legislation

gistration resides in the Representatives of the people, called the House of Assembly; it is therefore surplusage in the Constitution to annex the epithet "Executive" to Council, as there is no legislative Council in the State. One State Councillor for each County attends in monthly rotation, where the Governor resides, except when the Assembly sits, and then all must attend, unless sick, &c. The first day of meeting, after they are chosen, the Executive Council proceeds to the choice of a President; but the Governor may preside in the Executive Council, at all times, except when they are taking into consideration, and perusing the laws and ordinances offered to them by the House of Assembly; and in the absence or sickness of the Governor, the President of the Council exercises all the powers of the Governor.

When the King's Council sat as a legislative body, they were convened by the Governor, and observed the same form of proceeding that is used in the House of Lords in Great Britain (except that no Member had a right to make a proxy, nor could they adjourn themselves longer than from Saturday to Monday); and every Member might make his protestation, or enter his dissent to any vote of the House, agreeable to the method observed in the House of Lords. But when the King's Council sat as an executive body to advise the Governor, no Member could enter his protestation, for the opinion of the majority of the board was entered as the sense of the whole Council. Each Member, on his first admission to the Council Board, took the State Oaths; and also an oath not to reveal the secret debates of the Council, &c. the form of which Oath is set forth in the following part of this work. And the

the Clerk, Messenger, and Doorkeeper were appointed by the Governor.

The State Council settle their own rules of proceeding—vote by Counties, and not individually; and any Member may enter his protest against any measures in Council that he has not consented to, provided he does it within three days. And when any affair that requires secrecy is laid before the Governor and the Executive Council, the Governor must administer the oath of secrecy to the Council, their Secretary, and the other Officers necessary to carry the business into execution.

Under the King's Government, Georgia was divided into parishes, which were extensive; and some of these parishes sent one Representative a piece, other parishes sent two Representatives a piece, and there were parishes that sent three Representatives a piece to the Commons House of Assembly. Christ Church was the only parish that sent more than three Representatives to the Commons House of Assembly, and that was owing to its being the first settled part of the country, in consequence of which, it was divided into five districts, each of which returned one Member; and Savannah, the capital of the Province, and the seat of Government (which was situate in Christ Church Parish) returned four Members to the Commons House of Assembly. Had not the Civil War broke out, the western part of the Province, called the Ceded Lands, would have been divided into parishes, and the number of Representatives consequently increased. After the reduction of Georgia by his Majesty's forces, a bill, for that purpose, passed both Houses of Assembly; but before it could be carried into execution, the news of Lord Cornwallis's misfortune at York Town reached Savannah, and the evacuation

evacuation of Georgia took place in a few months after. The Writs of Election were issued by order of the Governor in Council, under the Great Seal of the Province, and tested by the Governor, returnable in forty days. When a vacancy happened in the Commons House of Assembly, after the general Election, the House applied to the Governor by address, and a Writ of Election issued to supply the vacancy. There was a Provost Marshal for the whole Province (in the nature of the Sheriff of a County in England) appointed by the Crown. The Principal resided in Great Britain, and rented out the office to a deputy, who was styled Acting Provost Marshal, and was the returning Officer for every parish and district, but he was by law impowered to appoint Deputies in the different parishes, *pro hac vice*, to hold the Elections for him. The qualification of an Elector was fifty acres of land in the parish or district where he voted; and of a Representative 500 acres of land in any part of the Province. The Representatives, when convened, were called the Commons House of Assembly, and chose their own Speaker, who was presented to the Governor for his approbation. The Commons House of Assembly continued, until the Governor thought proper to dissolve them, and they could not adjourn themselves longer than *de die in diem*, except from Saturday to Monday; but in other respects, they claimed most of the privileges of the House of Commons in Great Britain, and, at times, attempted to exert some powers that they were not intitled to. Their proceedings were conformed to those of the Commons in Great Britain, and they chose their own Messenger and Door-keeper, but the Governor appointed the Clerk. Being a subordinate Legislature, they should

should not have attempted to make laws repugnant to those of Great Britain; but they would soon have altered the Constitution the Crown gave them, had it not been for the negative of the Upper House, and the right the Governor had to refuse his assent to such laws as he did not approve of. They claimed and enjoyed the exclusive right of originating money bills, and would not suffer the Upper House to alter or amend them: however, if there was any impropriety in a money bill, the Upper House sent down an amendment in a private way; but the message purported that the Upper House agreed to the bill, without amendments. The Commons House did not expressly deny the Upper House the right of originating or amending any other than money bills; but several years before the subversion of the King's Government, they seldom, if at all, passed a bill that originated in the Council, nor would they allow it the title of Upper House. But the Commons House, that was elected after the re-establishment of the King's Government, passed several bills that originated with the Council, and suffered the Style of Upper House to stand in those bills. Before the Civil War, the Commons House neither received nor claimed wages; but affected great popularity, although, at times, they did some things with a high hand; and it required great address in a Governor to keep them in tolerable temper after the Stamp Act passed.

✓ The State of Georgia is now divided by the
 ✓ Constitution into Counties, several of which are
 named after some leading men in both Houses of
 Parliament. The number of Representatives in
 ✓ each County, depends on the number of Electors;
 for a County that has ten may chuse one Representative,

representative, and so in proportion, according to the number of Electors, until they amount to 100, who may choose ten Representatives; which is the greatest number that any County can elect. The returning Officers, are two Justices of the Peace for each County; and the Representatives are elected by ballot by the male white inhabitants not under twenty-one years old, each of whom must have paid taxes for a capital of ten pounds (or be of a mechanic trade), and have resided in the State six months: and each Elector, if required, must swear or affirm (as the case may be) that he owes allegiance to the State, and will support the Constitution thereof. But in the Counties of Glyn and Cambden, which are subject to alarms, and have few residents, the qualifications are different, until the number of inhabitants increases. The town of Savannah is allowed four Members, and the town of Sunbury two Members, to represent their trade. An Elector has only one vote, and must give it in the County where he resides: if he neglects to ballot, he forfeits a sum not exceeding five pounds, unless he has a reasonable excuse. But no person, having a title of nobility, can vote, be elected, or hold any post of honour, profit, or trust, until he gives up such distinction, in the manner the Legislature directs; and then he enjoys the benefits of a free citizen. Every Representative (except those for Glyn and Cambden Counties) must have resided twelve months in the State, and three months in the County where he is elected; he must be a Protestant, twenty-one years old, and own 250 acres of land, or some property worth 250 *l*. He must swear, "to bear true allegiance to the State—truly to perform the trust reposed in him—to execute the

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“same to the best of his knowledge for the benefit of the State, and the support of the Constitution—and that he has obtained his Election “without fraud or bribe.” And after five Representatives are met, they administer the oath to each other. The Representatives are elected annually on the first Tuesday in December, and meet the first Tuesday in January, where the last House directed. And when they have, at their first meeting after each Election, chosen a Governor, and two executive Councillors (for each County that elects ten Members) out of their own body, the Representatives that remain are called “The House of Assembly,” and constitute the Legislature of the State. The Constitution, indeed, says, that all laws shall be sent to the executive Council, after the second reading, for their perusal and advice; that they shall be returned in five days, with their remarks thereon; and that the Committee of the Council sent with the proposed amendments to any law, shall deliver their reasons for such proposed amendments, sitting and covered, all the House of Assembly, except the Speaker, being uncovered; but I apprehend that the House of Assembly may reject their amendments, and pass the law notwithstanding; however, the Constitution is not sufficiently explicit on the occasion. The Constitution gives the House of Assembly power to make such laws and regulations as may be conducive to the good order and well being of the State, provided they are not repugnant to the true intent and meaning of the Constitution: they have also power to repeal all laws injurious to the people; but all bills must be read three times on different days, except in cases of necessity and danger. The House of Assembly chooses its own Speaker
and

and Officers, settles its own rules of proceeding, directs Writs of Election for supplying intermediate vacancies, and adjourns itself to any time within the year. No civil or military Officer (except Justices of the Peace, and those who have Commissions in the Militia) can sit in the House of Assembly. After the subversion of the King's Government, the House of Assembly voted themselves wages, and one year it took the whole taxes of the Province to pay them, as I have heard.

The appointment of the Civil Officers is not vested in the executive power, as was the case during the King's Government; but they are annually elected by the County in which they act, except the Justices of the Peace, Attornies at Law, and the Registers for proving Wills, and granting Letters of Administration, who are appointed by the House of Assembly; and no person can hold more than one office of profit at the same time.

After Georgia became a King's Government, Mr. Reynolds, the first King's Governor, in pursuance of an instruction from the Crown, issued Letters Patent under the Great Seal of Georgia, dated the 12th of December, in the 28th year of George the Second, constituting a Court of Record by the name of "The General Court," to be holden four times a year, with the same jurisdiction in Georgia, that the King's Bench, Common Pleas, and Exchequer, exercise in England. On the 14th of November 1755, Governor Reynolds also issued Letters Patent for establishing a Court of Session of Oyer and Terminer, and General Gaol delivery, to be holden twice a year. The civil business was transacted at the General Court, and the criminal business at the Court of Oyer and Terminer, for which purpose Grand

Juries were returned twice a year. But as the Judges of the General Court, and the Judges of the Court of Session of Oyer and Terminer, were the same individuals, the latter Court was thought to be superfluous, and a Gaol Delivery only twice a year, was considered as not sufficient in a warm, unwholesome climate, where men suffered much from the length of confinement in a close gaol; and therefore, on the re-establishment of the King's Government, the Chief Justice drew up an Act to transfer the business of the Sessions to the General Court, and to cause four Grand Juries to be returned every year, instead of two. This Act passed into a law, the Court of Session no longer transacted any business, and there was a Gaol Delivery in the General Court four times a year. Georgia being a young Colony, the General Court was stationary at Savannah; but as the western boundary of the Province was 160 miles from Savannah, after the last cession made by the Indians to the Crown; a bill was therefore brought in to divide the Province into Circuits, and to enable the Judges of the General Court to hold Circuit Courts twice a year, for those places that were distant from Savannah: however, the evacuation of Georgia took place before the bill passed into a law. The presiding Judge, was styled "Chief Justice of Georgia," was a Barrister at Law, and had a salary of 500 *l.* sterling a year, raised by annual grant of Parliament. His attendance at Westminster Hall must necessarily have given him some degree of legal knowledge, and the salary and established fees enabled him to appear in the character of a gentleman, and to give due attention to his office, without prosecuting any other profession for a maintenance. The Chief Justice was appointed by warrant, under

under his Majesty's Sign Manual and Signet, which commanded the Governor to make out Letters Patent under the Great Seal of Georgia; and under that commission the Chief Justice acted. The appointment of the Assistant Judges, who were three in number, and had no salaries (unless on the death or absence of the Chief Justice), was left to the Governor. Before the Civil war broke out, the administration of justice was said to give satisfaction to the Public. For I have already observed, that where there is a Superior Court in a Colony, which has jurisdiction over the whole country, and the Judges go in circuit to those places which are distant from the seat of government, four men may be found who are capable of exercising a judicial office; nor will it be a great burden on any Colony, to provide salaries for them, so as to enable them to give their attention to the duties of their office, without applying themselves to any other profession for a maintenance.

However, after the Colonies declared themselves to be independent, and Georgia became a State, the Constitution established a Superior Court in each County, which tries all matters civil and criminal arising there, unless the parties reside in different Counties, and then the action is tried in that County where the defendant resides; but in questions concerning real estates, the action is tried in the County where the real estate lies. Each Court has a Chief Justice, and three or more of the Justices that reside in the County: there are at present eight Counties, and as the number of Counties increases, so will the number of Judges. The Jury are judges of law as well as of fact, and are not allowed to bring in a special verdict; but if they doubt of the law, must

THE JUDICIAL SYSTEM OF THE BRITISH COLONIES

There are no Judges on the bench, each of whom gives his opinion in rotation. It is probable, the Judges know as little of law as the Jurors, being laymen, and having such small salaries, that no man would accept of an office which would take up great part of his time. The Jurors are sworn, "to bring in a verdict, according to law, and the opinion they entertain of the evidence, provided it is not repugnant to the rules and regulations contained in the Constitution." Now it seems rather strange, that they should be sworn to bring in a verdict, according to law, when it is natural to suppose they cannot understand it. Besides, how can a verdict, according to law, be repugnant to the Constitution, unless the law and the Constitution contradict each other? There seems to be an appeal from the Superior Court to the Executive Council, as was the case under the old Government; but if, in civil cases, the Governor is dissatisfied with the verdict of the Superior Court, he may enter an appeal, and determine the appeal by a Special Jury, nominated by the Governor, and directed by their verdict to enter an appeal. This seems to be the nature of an appeal from one Jury to another, as the Special Jury is sworn "to bring in a verdict according to law, and the opinion they entertain of the evidence, provided it is not repugnant to justice, equity, and the rules and regulations contained in the Constitution of which they are sworn." It is supposed the Special Jury are intended to supply the place of a Court of Appeal, there being no other tribunal of that sort in the Constitution. Extraordinary in the case of a Common Jurymen is, that of a Special

Special Juror is yet more so; for a Special Juror is not only sworn to bring in a verdict according to law, although it is probable he knows nothing about it; but the oath supposes that the law may be repugnant to justice, equity, conscience, and the constitution, and of this, it is said, the Jury shall judge. Now the Special Jury is the last resort in all cases; and as they are impowered to judge where the law is repugnant to the Constitution (and can decide against law whenever they please, by saying it is contrary to the Constitution), they have it therefore in their power to change the law as often as they think proper. In Georgia, a Judge is now a very useless being; for as the special Jury is the dernier resort, from whose decision there lies no appeal, it is supposed the Court cannot set aside a verdict, and grant a new trial; and as the Jury are commanded by the Constitution to judge of the law as well as the fact, and are sworn to bring in a verdict according to law, &c. I apprehend that no question of law can be brought before the Court by demurrer, neither can the Court decide the law arising on a Special Verdict, as the Jury is forbid to bring one in. One single right the Constitution has reserved to the Bench, which is that of telling the Jury what the law is, when they doubt about it, although it is natural to suppose that the Judges know no more of the law than the Juror themselves do.

During the King's Government, there was a Court of Vice Admiralty to judge of captures at sea, and other maritime causes, which had a Judge appointed by the Crown, who proceeded according to the course of the civil law, and the established method of determination used in Great Britain, and other maritime nations. But now

the Constitution directs, that all captures by sea and land shall be tried in the County to which they are carried, in a special Court, called by the Chief Justice, or in his absence by the senior Justice, upon application of the captors or claimants; and the cause is to be determined in ten days. The proceedings are to be the same as in the superior Courts, unless, after the second trial, an appeal is made to the Continental Congress; and all maritime causes are to be tried in like manner. I cannot readily conceive how questions of capture can be tried according to the mode of proceeding used in the superior Court, where the common law process is adopted, and the Jury is sworn to give their verdict according to law: for it has been holden by some of the greatest lawyers in Europe, that any other method of trial, than that now used by Courts of Admiralty, would be manifestly unjust, absurd, and impracticable; and those Courts proceed according to the course of the civil law, and found their decisions on the law of nations, and particular treaties.

The Courts of Conscience, established by Act of Assembly during the King's Government, continue as before, except that their jurisdiction, which was formerly limited to 8*l.* is now extended to 10*l.*

Before the Civil War, the Attornies at Law (who also act as Counsel) were admitted by the General Court, but now they are admitted by the House of Assembly.

I apprehend the laws continue much as they were in the King's time, except as to the instances above-mentioned, and also with respect to real estates, which cannot be entailed; and where the owner dies intestate, his estate is divided, according

according to the Statute of Distributions of 22 & 23 Car. II. c. 10.

Every religion is tolerated, that is not repugnant to the peace and safety of the State; but no Clergyman of any denomination is allowed to sit in the Legislature.

Delegates to the Continental Congress are annually appointed by the House of Assembly, by ballot, are deemed a part of that House, and have a right to sit, debate, and vote there.

The Constitution says, that the legislative, executive, and judiciary departments shall be separate and distinct, so that one shall not exercise the powers properly belonging to the other. How well this rule has been observed in drawing up the Constitution, the reader will judge for himself.

Having now got through the Constitutions of the Thirteen United States of America, I shall make a few observations on them: and first, with respect to Georgia (a Province in which I resided several years), I must observe, that no country ever enjoyed a greater share of liberty than Georgia did from the time it became a King's Government, down to the breaking out of the Civil War. It is true, there was a strong tendency to democracy, for the Commons House of Assembly grasped at powers that did not belong to them, and they sometimes opposed measures which tended to the good of the community, merely because they did not originate with themselves. The Council, as a legislative body, lost its weight and influence in the country, because the Members were appointed only during pleasure, and therefore, the Commons House of Assembly, from jealousy, supposed they acted under influence; but had the Upper House of Assembly
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been a distinct body from the Council, and had the Members been appointed for life, and the hereditary title of Baronet been conferred on them, and some other leading men in the country, I am inclined to think that Province never would have joined in the Civil War. For such a mixture of aristocracy, and these hereditary honours (which must have stood or fallen with the King's Government) would have engaged a number of leading men in the interest of the Crown, sufficient to counterbalance the influence that the popular demagogues had in the country. And it is probable, that if the same experiment had been made in all the Provincial Establishments, they would still have continued to be British Governments. There was also another fatal practice, which greatly weakened the King's cause in all the American Colonies, I mean the bestowing almost every lucrative office in America, that could be exercised by Deputy, on some person residing in Great Britain, who employed a Deputy, with a slender allowance, to execute the office for him: this Deputy had neither weight in the Province, nor any interest in the Government under which he lived; for in case of a change he could not be worse, but having gained some official knowledge, he might hope to be a principal, if a revolution took place. Besides the Colony Governors, who were deprived of every appointment of consequence, had nothing in their power therewith to stop the mouths of those demagogues that endeavoured to throw the Country into confusion, and they thereby became insignificant. Some of us who wished well to the King's Government, lamented this unhappy practice, but the same prevailed down to the breaking out of the Civil War. However, notwithstanding

standing these inconveniencies, Georgia continued under the King's Government to be one of the most free and happy countries in the world—justice was regularly and impartially administered—oppression was unknown—the taxes levied on the subject were trifling—and every man that had industry, became opulent—the people there were more particularly indebted to the Crown, than those in any other Colony—immense sums were expended by Government in settling and protecting that country—troops of rangers were kept up by the Crown for several years—the Civil Government was annually provided for by vote of the House of Commons in Great Britain, and most of the inhabitants owed every acre of land they had to the King's free gift: in short, there was scarce a man in the Province that did not lie under particular obligations to the Crown. As a proof of the amazing progress that Georgia made, I should observe, that when Governor Reynolds went to that province in 1754, the exports did not amount to 30,000*l.* a year; but at the breaking out of the Civil War, they could not be much less than 200,000*l.* sterling. The case is now quite altered, for most of the gentlemen of distinction and property in Georgia were Loyalists, and on the evacuation they left the country, and carried off their Negroes; and others of the Loyalists were cruelly murdered for their attachment to their Sovereign. I am persuaded that not a tenth part of the white inhabitants, that were in Georgia at the breaking out of the Civil War, remain there at this time; and the proportion of Negroes is much less. Should the Representatives continue to vote themselves wages, as they did before Colonel Campbell reduced the Country, the whole taxes of the Province will not be sufficient

ment for that purpose; and what is to become of the Governor, and the numerous train of civil Officers? Georgia is also subjected to another disagreeable circumstance beyond any other of the Thirteen States, which is this: The Southern Colonies are overrun with a swarm of men from the western parts of Virginia and North Carolina, distinguished by the name of Crackers. Many of these people are descended from convicts ~~that~~ were transported from Great Britain to Virginia at different times, and inherit so much profligacy from their ancestors, that they are the most abandoned set of men on earth, few of them having the least sense of religion. When these people are routed in the other provinces, they fly to Georgia, where the winters are mild, and the man who has a rifle, ammunition, and a blanket, can subsist in that vagrant way, which the Indians pursue, for the quantity of deer, wild turkies, and other game there, affords subsistence; and the country being mostly covered with woods, they have always in their power to construct themselves huts, and procure fuel. The Eastern part of Georgia, in which they plant rice, is at present almost settled on account of the emigration of the Cavaliers, and the greatest proportion of the inhabitants are Negro slaves: whereas in the western parts, the inhabitants are numerous, and only increase by the accession of the Crackers from the other Provinces; and it is highly probable that these people will in time overrun the western part of the country, as the Tartars in Asia have done by the fruitful cultivated provinces in the eastern parts of that country. What induces me to think so, is, that during the King's Government these Crackers were very troublesome in the settlements, by driving off

gangs

gangs of horses and cattle to Virginia, and committing other enormities: they also occasioned frequent disputes with the Indians, whom they robbed, and sometimes murdered: the Indians in return, according to their custom, murdered the first white man they met, by way of retaliation. To a similar situation with those Crackers, would the disciples of Hume reduce the people of this country, could they succeed in abolishing Christianity, and persuading the world to believe that moral and natural defects are on the same footing. Georgia being bounded by the most northern stream of the River Savannah, it expands greatly in that quarter, forms part of the western boundary of South Carolina, and joins North Carolina. Since the late provisional treaty, no other nation but the Indians can contest with them the right to that large and fertile country, which lies between Georgia and the River Mississippi. During the Civil War, the Americans lost much of that apprehension which they formerly entertained of the Indians, for the Crackers, who are destitute of every sense of religion, which might withhold them from acts of perfidy and cruelty, have been discovered to outdo the Indians in bearing hunger and fatigue; and as they lead a savage kind of life, they are equally skilled in the arts of bush fighting, and discovering the enemy by their tracks: These men will naturally settle fast in the western parts of North Carolina and Georgia; and as the Indians dwindle away before them, they certainly threaten ruin to the civilized parts of the rice Colonies, who have not now a common parent to call to their assistance. How much soever I may detest the conduct of some men in America in bringing on the Civil War, and the consequent
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ruin of their country; yet Christianity forbids me to wish ill to an individual: how much more then does it forbid the wishing ill to thousands: and had I abilities to suggest hints that would conduce to the good of my greatest enemies, I should rejoice in having an opportunity of doing it.

I now beg leave to make some observations on the United States in general.—By this time the reader must have observed, that the Constitutions of all these States are Democratical; and however specious that form of government may appear in theory, yet, as a great Author has observed, in a popular State virtue is a necessary spring; and I do by no means agree, that the Americans are more virtuous than the rest of mankind. I shall quote from Montesquieu a passage, in which he has described the situation of England during the Civil War.

“ A very droll spectacle it was, in the last century, to behold the impotent efforts the English made for the establishment of Democracy. As those who had a share in the direction of public affairs were void of all virtue, as their ambition was inflamed by the success of the most daring of their Members, as the spirit of faction was suppressed only by that of a succeeding faction, the Government was continually changing. The people, amazed at so many revolutions, sought every where for a Democracy, without being able to find it. At length, after a series of tumultuary motions and violent shocks, they were obliged to have recourse to the very government they had so odiously proscribed.” Whether this description will ever suit America, time only can discover; it is said that, even now, the majority of the people there is averse to independency; and when

when it was offered to the Congress, their apprehensions seemed to increase. Had those men read Montesquieu and De Lolme on the Constitution of England, they would not (to use the words of the first Author), have built a Chalcedon, when they had a Byzantium before their eyes.

Many efforts were made by Great Britain to recover America from the delusion they were under: the 18 Geo. III. c. 13. "Enabled his Majesty to appoint Commissioners, with sufficient powers to treat, consult, and agree upon the means of quieting the disorders subsisting in certain of the Colonies, Plantations, and Provinces of North America." In pursuance of this Act, the King did from time to time appoint Commissioners to treat with the Americans; and as the Congress could not safely reject the offers made by the British Commissioners in a peremptory manner, evasive answers were returned, and the people were deceived with the false representation of an interview with the British Commissioner: but there was a party in the Congress, which influenced the deliberations of that Body against a Reconciliation; and when General Burgoyne's Defeat, and the Conciliatory Motion made in the House of Commons, had elevated the Congress, they with arrogance rejected the second Proposals made by Great Britain. As nothing short of Independency would satisfy the leading Men in Congress, the Act of 22 Geo. III. c. 46 was made, "To enable his Majesty to conclude a peace or truce with certain Colonies in North America, therein mentioned," but which impliedly gave the King a power to declare them Independent; and such was the construction which the House of Commons put on that Act, in their Debate on the late Peace.

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In pursuance of that Act, Mr. Oswald was sent to Paris to treat with the American Commissioners, and on the 30th of November 1782, Provisional Articles were signed at Paris by the British and American Commissioners, to take effect when Terms of Peace were agreed upon between Great Britain and France, and his Britannic Majesty should be ready to conclude such Treaty accordingly. By the Provisional Articles, his Britannic Majesty acknowledges the Thirteen United States of America (in the Articles particularly named) to be Free, Sovereign and Independent States; and for himself, his heirs and successors, relinquishes all claims to the government, propriety, and territorial rights of the same.

The affection I have for my native country, induces me to recommend one measure to Government, which, however chimerical it may appear, will, I flatter myself, give no offence to any one. I would, in the first place, premise, that I do not take upon me to question the attachment of the present set of men in the West Indies to their Sovereign and Parent State; but those Islands change their inhabitants in a few years; a new race may be inclined to give the Mother Country as much trouble as the Colonies on the Continent have done; and it is by no means clear, that the North Americans will refuse them their assistance.—If those Islands should become independent, Great Britain would have no footing in the West Indies, unless the following plan was adopted:—The cession of Gibraltar would insure to Great Britain such of the Spanish Islands in the West Indies as she might chuse to ask for. Let some Island of a moderate size be pitched upon, that is naturally defensible, and has a good harbour, capable

pable of receiving and heaving down line of battle ships.—Let an Act of Parliament be made, which unalienably annexes this Island to Great Britain.—After reserving lands sufficient for Fortifications, a Dock-yard, Churches, and other public Places, let the lands on the harbour be laid out in town lots, and the rest of the Island in farm lots or plantations, not exceeding a small number of acres; and let it be provided by the Act, that no person shall hold more than one town lot, and one farm lot; and if more should come to him by descent, or otherwise, he shall be obliged to sell the overplus number within a given time, or else they shall be forfeited to the Crown.

This Island being intended merely as an emporium, provide that no sugar-canes, cotton, or indigo, shall be raised on it, but that the inhabitants shall be confined to the raising stock and provisions.—Make this Island a free port; give the people the trial by jury, and establish every other part of the Constitution of England, except that of a right to chuse Representatives.—And let every grant of a town or farm lot have a clause inserted in it, to run with the land, expressly stipulating, that there never shall be a power of legislation in the Island, but that the Parliament of Great Britain shall always exercise the powers of legislation and taxation over it.—A man who purchased lands in the Island, and voluntarily settled there under such a restriction, could never complain of the want of a Colony Legislature; and as the Parliament would pay every attention to the prosperity of the Island, and the encouragement of trade, such a Colony would be as free as any the English ever had, and much more happy. The Island might be rendered as strong as art, combined with nature, could make it, and should

always have a strong garrison.—If the Governor was an able civilian, and the Judges good common lawyers, the inhabitants would suffer no oppression; but if the gentleman who commanded the forces was the Governor of the Island, it might undo every thing.—Such an Island would probably have an immense trade, and be of great importance to the commerce and manufactures of this country. In a Colony settled on such a plan, where the inhabitants enjoyed the benefits of the Common Law of England, and had regular Courts of Justice established, every thing would probably remain quiet, unless a General Assembly was convened, and then a scene of confusion might ensue; for, as an ingenious writer in the year 1770 observed, “When you put every Colony on the same footing with the Mother Country, it becomes an independent Government. The British Empire is no longer to be governed by the same general tenor of laws. It ceases to be one, it is at best but a confederacy of petty States. Instead of the Empire’s being strengthened with Provinces, it is weakened by raising rivals, where there only ought to be subjects.” I must own, I never could conceive any just medium between the supremacy of Parliament over the Colonies in all cases, on the one hand, and the Independency of the Colonies, on the other. Having just taken up a book which exactly expresses my thoughts, I shall quote a passage from it—“The British Parliament must be the supreme power in all the British dominions; and if so, all the British dominions ought to pay obedience, in all cases, to all the laws in which they are mentioned, that may be enacted by the British Parliament; and to refuse obedience
“ in

“ in any such case, is to declare themselves an independent people.”

No good man would wish to revive the question concerning the right of the British Parliament to tax the Colonies; and the 18 Geo. III. c. 12. hath declared, “ That the King and Parliament of Great Britain will not impose any duty, tax, &c. payable in the Colonies, except for the regulation of commerce.” The supreme and absolute authority of the British Empire is vested in the King and Parliament, and to their direction in all cases I do most dutifully submit; but although the 18 Geo. III. may be conclusive as to those British Colonies which are already settled, yet that Act cannot extend to those which may hereafter be acquired, nor restrain the King and Parliament from settling them on what terms they may think proper. And as I apprehend there are at present no thoughts of extensive Colonization, we ought to settle a few Islands in different parts of the world, in the nature of free ports, and on the plan above mentioned, in order to secure our commerce. Every man of discernment must be convinced, that the East India Company will not long be able to hold the extensive countries they now command: and the sooner something is done in the Indian ocean, on the plan I have proposed, the better it may be for this country. I flatter myself that no man entertains a greater regard for true liberty, and the happy Constitution of this Island, than I do; but altho’ it might be intended to benefit mankind, by establishing the counterpart of our excellent Constitution in the large Provinces on the Continent of America, yet there can be no reason for convening a Colony Legislature in such small Islands as may hereafter be settled, for the sole purpose

of commerce; and if they enjoy the Common Law of England, and are under the immediate and sole direction of the supreme Legislature of the Empire, they will have no reason to complain.

As far as lies with an obscure individual, I wish, on all occasions, to consult the interests of Christianity, the good of my country, and the welfare of mankind: the purity of my intentions will therefore afford me consolation, let the fate of my projects be what they may.—It is the great pride of my life that I was born in this Island, which is the only spot on earth that enjoys a free and happy Constitution: may it continue in its present purity to the latest posterity! But it has often hurt my feelings to reflect, that after Great Britain had settled a number of Colonies at an immense expence, protected them against the French and Indians, given them a free form of Government, and instead of cramping their commerce by taxes, encouraging it by drawbacks and bounties, so that they became the most happy people on earth—That those Colonists, from an excess of liberty and affluence, should wantonly follow the lead of factious men, and join the ancient enemies of their country, to the intended destruction of their Parent State, and their own ruin, is more than human nature can bear with patience.—When several turbulent men united to involve the Province where I resided in the civil war, I did, in my charges to Grand Juries, and on other occasions, point out to them the ill consequences that would attend the subversion of the King's Government; the event has justified my predictions; and having discharged my duty to my King and country, I mean, if God spares me life and health, to publish a Narrative of my conduct,

conduct, which will not depend on bare assertion, but authentic vouchers.

C H A P. IV.

Of the Governor of a Provincial Establishment, or King's Government, and of the powers and authorities with which he is vested by his Commissions and Instructions.

PROVINCIAL Establishments being the only species of American Governments that now remain to Great Britain, I shall confine myself to them, except where I have occasion to speak incidentally, of some few particulars regarding the Proprietary and Charter Governments, at the time they were under the Crown of Great Britain.

I have already observed, in a former part of this work, that in a Provincial Establishment, or King's Government, the Governor is named by the King, and is his Representative or Deputy. He is styled "Captain-General and Governor in Chief in and over the Province, and Chancellor, Vice-Admiral, and Ordinary of the same:" and has the title of "Excellency" given him, in consequence of his being the King's immediate Representative.

I shall lay before the Reader a modern form of a Governor's Commission, which contains the recital of the Act made in the 6th year of his present Majesty, for altering the oath of abjuration, &c.; and also the recital of the 22 Geo. II. c. 33. for amending, explaining, and reducing into one Act of Parliament, the laws relating to the government of his Majesty's ships, vessels, and

forces by sea.—The dates in this commission are arbitrary, and the name of any particular Province is omitted.—I flatter myself there cannot be the least disrespect to Government in publishing this form of a Governor's commission, as some have already appeared in print.

After the commission of Governor, will appear that of Vice-Admiral, and then some account of the powers and authorities with which a Governor is vested by his commission and instructions.

G. R.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, and so forth: To our trusty and well beloved A. B. Esq;

GREETING :

WH^{EREAS} we did, by our Letters Patent under our Great Seal of Great Britain, bearing date at Westminster the first day of January, in the eighteenth year of our reign, constitute and appoint C. D. Esq; Captain-General and Governor in Chief in and over our Province of F—, and the territories depending thereon in America, for and during our will and pleasure; as by the said recited Letters Patent (relation being thereunto had) may more fully and at large appear: Now know you, that we have revoked and determined, and by these presents do revoke and determine the said recited Letters Patent, and every clause, article, and thing therein contained.

And further know you that we, reposing especial trust and confidence in the prudence, courage and loyalty of you the said A. B. of our especial grace, certain knowledge, and mere motion, have
thought

thought fit to constitute and appoint you the said A. B. to be our Captain-General and Governor in Chief in and over our Province of F—, and the territories depending thereon in America: And we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission, and instructions herewith given you, or by such further powers, instructions, and authorities, as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual, or by our order in our Privy Council, and according to such reasonable laws and statutes as now are in force, or hereafter shall be made and agreed upon by you, with the advice and consent of our Council, and the Assembly of our said Province under your government, in such manner and form as is herein after expressed.

And our will and pleasure is, that you the said A. B. after the publication of these our Letters Patent, do, in the first place, take the oaths appointed to be taken by an Act passed in the first year of the reign of King George the First*, intituled, "An Act for the further security of his Majesty's person and government, and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors." And by an Act passed in the sixth year of our reign†, intituled, "An Act for altering the oath of abjuration, and the assurance; and for amending so

* 1 Geo. I. st. 2. c. 13.

† 6 Geo. III. c. 53.

“ much of an Act of the seventh year of her late
 “ Majesty Queen Ann, intituled, An Act for the
 “ improvement of the Union of the two King-
 “ doms, as after the time therein limited requires
 “ the delivery of certain lists, and copies therein
 “ mentioned, to persons indicted of high treason,
 “ or misprision of treason.” As also, that you
 make and subscribe the declaration mentioned
 in an Act of Parliament made in the twenty-
 fifth year of the reign of King Charles* the Second,
 intituled, “ An Act for preventing dangers which
 “ may happen from Popish recusants.” And
 likewise, that you take the oath usually taken by
 the Governors in the Plantations, for the due
 execution of the office and trust of our Captain-
 General and Governor in Chief in and over our
 said Province of F—, and the territories de-
 pending thereon, for the due and impartial admi-
 nistration of justice: and further, that you take
 the oath required to be taken by Governors of
 Plantations, to do their utmost, that the several
 laws relating to trade and the Plantations be duly
 observed: which said oaths and declaration our
 Council of our said Province, or any three of the
 Members thereof, have hereby full power and
 authority, and are required to tender and admi-
 nister unto you, and in your absence to our Lieu-
 tenant-Governor, if there be any upon the place;
 all which being duly performed, you shall your-
 self administer unto each of the Members of our
 said Council; as also to our Lieutenant-Governor,
 if there be any upon the place, the oaths men-
 tioned in the said Acts, intituled, “ An Act for
 “ the further security of his Majesty’s person and
 “ government, and the succession of the Crown

* 25 Cha. II. c. 2.

“ in the heirs of the late Princess Sophia, being
“ Protestants, and for extinguishing the hopes of
“ the pretended Prince of Wales, and his open
“ and secret abettors.” And an Act for altering
the oath of abjuration, and the assurance; and
for amending so much of an Act of the seventh
year of her late Majesty Queen Ann, intituled,
“ An Act for the improvement of the Union of
“ the two Kingdoms, as after the time therein
“ limited requires the delivery of certain lists,
“ and copies therein mentioned, to persons in-
“ dicted of high treason, or misprision of treason;”
as also to cause them to make and subscribe the
afore mentioned declaration, and to administer to
them the usual oath for the due execution of their
places and trusts.

And we do hereby give and grant unto you full
power and authority to suspend any of the Mem-
bers of our said Council from sitting, voting, or
assisting therein, if you shall find just cause for so
doing; and if there shall be any Lieutenant-Gov-
ernor, him likewise to suspend from the execu-
tion of his command, and to appoint another in
his stead until our pleasure be known: and if
it shall at any time happen, that, by the death,
departure out of our said Province, or suspension
of any of our said Councillors, or otherwise, there
shall be a vacancy in our said Council (any three
whereof we do hereby appoint to be a quorum),
our will and pleasure is, that you signify the same
unto us by the first opportunity, that we may,
under our Signet and Sign Manual, constitute
and appoint others in their stead. But that our
affairs may not suffer at that distance, for want of
a due number of Councillors, if ever it should
happen that there be less than seven of them re-
siding in our said Province, we do hereby give
and

and grant unto you the said A. B. full power and authority to chuse as many persons out of the principal Freeholders, inhabitants thereof, as will make up the full number of our said Council to be seven, and no more; which persons, so chosen and appointed by you, shall be, to all intents and purposes, Councillors in our said Province, until either they shall be confirmed by us, or that, by the nomination of others by us, under our Sign Manual and Signet, our said Council shall have seven or more persons in it.

And we do hereby give and grant unto you full power and authority, with the advice and consent of our said Council, from time to time as need shall require, to summon and call General Assemblies of the said Freeholders and Planters within your government, according to the usage of our Province of F——. And our will and pleasure is, that the persons thereupon duly elected by the major part of the Freeholders of the respective Counties and places, and so returned, shall, before their sitting, take the oaths mentioned in the said Acts, intituled, “An Act for
 “ the further security of his Majesty’s person and
 “ Government, and the succession of the Crown,
 “ in the heirs of the late Princess Sophia, being
 “ Protestants, and for extinguishing the hopes of
 “ the pretended Prince of Wales, and his open
 “ and secret abettors:”—and “An Act for al-
 “ tering the oath of abjuration, and the assu-
 “ rance; and for amending so much of an Act
 “ of the seventh year of her late Majesty Queen
 “ Ann, intituled, An Act for the improvement
 “ of the Union of the two Kingdoms, as after
 “ the time therein limited, requires the delivery
 “ of certain lists, and copies therein mentioned,
 “ to persons indicted of high treason, or mis-
 “ prison

"prison of treason:"—as also, make and subscribe the afore-mentioned declaration (which oaths and declaration you shall commissionate fit persons, under our Seal of F—, to tender and administer unto them): and until the same shall be so taken and subscribed, no person shall be capable of sitting, though elected.

And we do hereby declare, that the persons so elected and qualified shall be called and deemed The General Assembly of that our Province, and the territories depending thereon.

And you the said A. B. by and with the consent of our said Council and Assembly, or the major part of them respectively, shall have full power and authority to make, constitute, and ordain laws, statutes, and ordinances, for the public peace, welfare, and good government of our said Province, and of the people and inhabitants thereof, and such others as shall resort thereto, and for the benefit of us, our heirs and successors: which said laws, statutes, and ordinances, are not to be repugnant, but as near as may be agreeable to the laws and statutes of this our kingdom of Great Britain.

Provided that all such laws, statutes and ordinances, of what nature or duration soever, be, within three months or sooner after the making thereof, transmitted unto us under our Seal of F—, for our approbation or disallowance of the same; as also duplicates thereof by the next conveyance.

And in case any or all of the said laws, statutes, and ordinances, being not before confirmed by us, shall at any time be disallowed, and not approved, and so signified by us, our heirs or successors, under our or their Sign Manual and Signet, or by order of our or their Privy Council, unto
you

you the said A. B. or to the Commander in Chief of our said Province for the time being; then such and so many of the said laws, statutes and ordinances, as shall be so disallowed, and not approved, shall from thenceforth cease, determine, and become utterly void and of none effect; any thing to the contrary thereof notwithstanding.

And, to the end that nothing may be passed or done by our said Council or Assembly, to the prejudice of us, our heirs or successors, we will and ordain, that you the said A. B. shall have and enjoy a negative voice in the making and passing of all laws, statutes and ordinances, as aforesaid: and you shall and may likewise, from time to time, as you shall judge it necessary, adjourn, prorogue, and dissolve all General Assemblies as aforesaid.

And our further will and pleasure is, that you shall and may use and keep the Public Seal of our said Province of F——, for sealing all things whatsoever that pass the Great Seal of our said Province under your government.

And we do further give and grant unto you the said A. B. full power and authority from time to time, and at any time hereafter, by yourself, or by any other to be authorised by you in that behalf, to administer and give the oaths mentioned in the said Acts, intituled, “ An Act for the further security of his Majesty’s person and Government, and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors:” and, “ An Act for altering the oath of abjuration, and the assurance; and for amending so much of an Act of the seventh year of her late Majesty Queen Ann, “ intituled,

“ intituled, An Act for the improvement of the
“ Union of the two Kingdoms, as, after the time
“ therein limited, requires the delivery of certain
“ lists, and copies therein mentioned, to persons
“ indicted of high treason or misprision of trea-
“ son,” to all and every such person and per-
sons as you shall think fit, who shall at any time
or times pass into our said Province, or shall be
resident or abiding there.

And we do further by these presents give and
grant unto you the said A. B. full power and au-
thority, with the advice and consent of our said
Council, to erect, constitute, and establish such
and so many Courts of Judicature and public
Justice, within our said Province under your go-
vernment, as you and they shall think fit and ne-
cessary for the hearing and determining of all
causes, as well criminal as civil, according to
law and equity, and for awarding execution there-
upon; with all reasonable and necessary powers,
authorities, fees, and privileges belonging there-
unto: as also, to appoint and commissionate fit
persons in the several parts of your government,
to administer the oaths mentioned in the aforesaid
Act, intituled, “ An Act for the further security
“ of his Majesty’s person and government, and
“ the succession of the Crown, in the heirs of the
“ late Princess Sophia, being Protestants, and for
“ extinguishing the hopes of the pretended Prince
“ of Wales, and his open and secret abettors;”
and “ An Act for altering the oath of abjuration,
“ and the assurance; and for amending so much
“ of an Act of the seventh year of her late Ma-
“ jesty Queen Ann, intituled, An Act for the
“ improvement of the Union of the two King-
“ doms, as, after the time therein limited, re-
“ quires the delivery of certain lists and copies
“ therein

"therein mentioned, to persons indicted of high treason, or misprision of treason;" as also to tender and administer the aforesaid declaration, unto such persons belonging to the said Courts, as shall be obliged to take the same.

And we do hereby authorise and impower you to constitute and appoint Judges, and in cases requisite, Commissioners of Oyer and Terminer, Justices of the Peace, and other necessary Officers and ministers in our said Province, for the better administration of justice, and putting the laws in execution; and to administer, or cause to be administered unto them, such oath or oaths as are usually given for the due execution and performance of offices and places, and for the clearing of truth in judicial causes.

And we do hereby give and grant unto you full power and authority, where you shall see cause, or shall judge any offender or offenders in criminal matters, or for any fines or forfeitures due unto us, fit objects of our mercy, to pardon all such offenders, and to remit all such offences, fines, and forfeitures, treason and wilful murder only excepted; in which cases, you shall likewise have power, upon extraordinary occasions, to grant reprieves to the offenders, until, and to the intent that, our royal pleasure may be known therein.

And we do, by these presents, authorise and impower you to collate any person or persons to any churches, chapels, or other ecclesiastical benefices within our said province and territories aforesaid, as often as any of them shall happen to be void.

And we do hereby give and grant unto you the said A. B. by yourself or by your captains and commanders, by you to be authorised, full power and

and authority to levy, arm, muster, command, and employ all persons whatsoever, residing within our said Province of F——, and other the territories under your government; and, as occasion shall serve, to march them from one place to another, or to embark them, for the resisting and withstanding of all enemies, pirates, and rebels, both at sea and land; and to transport such forces to any of our plantations in America, if necessity shall require, for the defence of the same against the invasions or attempts of any of our enemies; and such enemies, pirates, and rebels, if there shall be occasion to pursue and prosecute in or out of the limits of our said Province and Plantations, or any of them; and if it shall so please God them to vanquish, apprehend, and take, and being taken, either according to law to put to death, or keep and preserve alive, at your discretion; and to execute martial law in time of invasion, war, or other times, when by law it may be executed; and to do and execute all and every other thing and things, which, to our Captain General and Governor in Chief, doth or ought of right to belong.

And we do hereby give and grant unto you full power and authority, by and with the advice and consent of our said Council, to erect, raise, and build, in our said Province of F——, and the territories depending thereon, such and so many forts and platforms, castles, cities, boroughs, towns, and fortifications, as you, by the advice aforesaid, shall judge necessary; and the same, or any of them, to fortify and furnish with ordnance, ammunition, and all sorts of arms fit and necessary for the security and defence of our said Province; and, by the advice aforesaid, the same
again,

again, or any of them, to demolish or dismantle as may be most convenient.

And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at sea, during the time of war; and to the end that such as shall be shipped and employed at sea during time of war, may be better governed and ordered, we do hereby give and grant unto you the said A. B. full power and authority to constitute and appoint Captains, Lieutenants, Masters of Ships, and other Commanders and Officers, and to grant to such Captains, Lieutenants, Masters of Ships, and other Commanders and Officers Commissions, to execute the law martial during the time of war, according to the directions of an Act passed in the twenty-second year of the reign of our late Royal Grandfather*, intituled, "An Act for amending, explaining, and reducing into one Act of Parliament the laws relating to the government of his Majesty's ships, vessels, and forces by sea;" and to use such proceedings, authorities, punishments, corrections, and executions upon any offender or offenders, who shall be mutinous, seditious, disorderly, or any way unruly either at sea, or during the time of their abode and residence in any of the ports, harbours, or bays of our said province and territories, as the case shall be found to require, according to the martial law, and the said directions, during the time of war as aforesaid.

Provided that nothing herein contained shall be construed to the enabling you, or any by your authority, to hold plea, or have any jurisdiction

* 22 Geo. H. c. 33.

of any offences, cause, matter, or thing committed or done upon the high sea, or within any of the havens, rivers, or creeks of our said Province and territories under your government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person whatsoever, who shall be in our actual service and pay, in or on board any of our ships of war, or other vessels acting by immediate commission or warrant from our Commissioners, for executing the office of our High Admiral of Great Britain; or from our High Admiral of Great Britain for the time being, under the Seal of our Admiralty; but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person so offending, shall be left to be proceeded against, and tried, as their offences shall require, either by commission under our Great Seal of Great Britain, as the Statute of the twenty-eighth of Henry the Eighth directs, or by Commission from our said Commissioners for executing the office of our High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being, according to the aforementioned Act, intituled, "An Act for amending, explaining, and reducing into one Act of Parliament the laws relating to the government of his Majesty's ships, vessels, and forces by sea, and not otherwise."

Provided nevertheless, that all disorders and misdemeanors, committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person whatsoever belonging to any of our ships of war, or other vessels, acting by immediate commission or warrant from our said Commissioners for executing the office of our High Admiral of Great Britain, or

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from

from our High Admiral of Great Britain for the time being, under the Seal of our Admiralty, may be tried and punished, according to the laws of the place, where any such disorder, offence, and misdemeanor shall be committed on shore, notwithstanding such offenders be in our actual service, and borne in our pay on board any such our ships of war, or other vessels, acting by immediate commission or warrant from our said Commissioners for executing the office of our High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being as aforesaid; so as he shall not receive any protection for the avoiding of justice for such offences committed on shore, from any pretence of his being employed in our service at sea.

And our further will and pleasure is, that all public monies raised, or which shall be raised by any Act to be hereafter made within our said Province, and other the territories depending thereon, be issued out by warrant from you, by and with the advice and consent of our Council, and disposed of by you for the support of the government, and not otherwise.

And we do hereby likewise give and grant unto you full power and authority, by and with the advice and consent of our said Council, to settle and agree with the inhabitants of our province and territories aforesaid, for such lands, tenements, and hereditaments, as now are, or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms, and under such moderate quit-rents, services, and acknowledgments, to be thereupon reserved unto us, as you, by and with the advice aforesaid, shall think fit: which said grants are to pass, and be sealed by our Seal of our said Province of

F—; and being entered upon record by such officer or officers, as are or shall be appointed thereunto, shall be good and effectual in law against us, our heirs, and successors.

And we do hereby give you the said A. B. full power and authority to order and appoint fairs, marts, and markets, as also such and so many ports, harbours, bays, havens, and other places for the convenience and security of shipping, and for the better loading and unloading of goods and merchandises in such and so many places, as by you, with the advice and consent of our said Council, shall be thought fit and necessary.

And we do hereby require and command all Officers and Ministers, civil and military, and all other inhabitants of our said Province and Territories depending thereon, to be obedient, aiding, and assisting unto you, the said A. B. in the execution of this our Commission, and of the powers and authorities herein contained; and in case of your death or absence out of our said province and territories depending thereon, to be obedient, aiding, and assisting unto such person as shall be appointed by us to be our Lieutenant Governor, or Commander in Chief of our said Province for the time being; to whom we do therefore by these presents give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during our pleasure, or until your arrival within our said province and territories.

And if, upon your death or absence out of our said province and territories depending thereon, there be no person upon the place commissioned or appointed by us to be our Lieutenant Governor, or Commander in Chief of our said Province, our will and pleasure is, that the eldest Councillor, whose name is first placed in our said

instructions to you, and who shall, at the time of your death or absence, be residing within our said Province of F——, shall take upon him the administration of the government, and execute our said commission and instructions, and the several powers and authorities therein contained, in the same manner, and to all intents and purposes, as other our Governor and Commander in Chief of our said Province, should or ought to do in case of your absence until your return, or in all cases, until our further pleasure be known therein.

And we do hereby declare, ordain, and appoint that you the said A. B. shall and may hold, execute, and enjoy the office and place of our Captain General and Governor in Chief in and over our Province of F——, and the territories depending thereon, together with all and singular the powers and authorities hereby granted unto you, for and during our will and pleasure.

In witness whereof, we have caused these our Letters to be made Patent.

Witness ourself at Westminster, the first day of January, in the twenty-third year of our reign.

By Writ of Privy Seal,
YORKE and YORKE.



In Charter Governments, such as Connecticut and Rhode Island, where the Governor was annually chosen by the people, in the same manner

as a Mayor is in a Corporation in England, it would have been improper to have trusted such elected Governor (who was frequently a man of little knowledge or consequence) with the command of the Militia in the Province over which he presided. In such cases therefore, before the Civil War, it was usual to insert in the Commission of the Governor of the Provincial Establishment, or King's Government, next to such Charter Government, a clause, appointing the King's Governor Captain General and Commander in Chief of the Militia and Forces by sea and Land; and of all forts, &c. in such Charter Government; which clause was in the following words:

“ And whereas there are divers Colonies ad-
 “ joining to our Province of F——, for the de-
 “ fence and security whereof, it is requisite that
 “ due care be taken in time of war; we have there-
 “ fore thought it necessary for our service, and for
 “ the better protection and security of our subjects
 “ inhabiting those parts, to constitute and appoint,
 “ and we do by these presents constitute and ap-
 “ point you the said A. B. to be our Captain Ge-
 “ neral and Commander in Chief of the Militia,
 “ and of all the forces by sea and land within our
 “ Colony of G——, and of all our forts and places
 “ of strength within the same; and for the better
 “ ordering, governing, and ruling our said Militia,
 “ and all our forces, forts, and places of strength
 “ within our said Colony of G——, we do hereby
 “ give and grant unto you the said A. B. and in
 “ your absence to our Commander in Chief of our
 “ Province of F——, all and every the like
 “ powers as in these presents are before granted
 “ and recited, for the ruling, governing, and
 “ ordering our Militia, and all our forces, forts,

“and places of strength within our Province of
 “F—, to be exercised by you the said A. B.
 “and in your absence from our territories and
 “dominion of F—, by our Commander in
 “Chief of our Province of F—, within our
 “said Colony of G—, for and during our
 “pleasure.”

COMMISSION of VICE ADMIRAL

GEORGE the Third, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, to our beloved A. B. Esq. our Captain General and Governor in Chief in and over our Province of F—, in America.

GREETING :

WE confiding very much in your fidelity, care, and circumspection in this behalf, do, by these presents, which are to continue during our pleasure only, constitute and depute you the said A. B. Esq. our Captain General and Governor in Chief aforesaid, our Vice Admiral, Commissary, and Deputy in the Office of Vice Admiralty in our Province of F— aforesaid, and the territories depending thereon in America, and in the maritime parts of the same and thereto adjoining whatsoever; with power of taking and receiving all and every the fees, profits, advantages, emoluments, commodities, and appurtenances whatsoever due, and belonging to the said office of Vice Admiral, Commissary, and Deputy in our Province of F—, and the territories depending thereon, and maritime parts of the same and adjoining to them whatsoever, according to the ordinances and statutes of our High Court of Admiralty in England.

And

And we do hereby remit and grant unto you the aforesaid A. B. our power and authority in and throughout our province of F—— aforesmentioned, and the territories depending thereon, and maritime parts whatsoever of the same and thereto adjacent, and also throughout all and every the sea-shores, public streams, ports, fresh water rivers, creeks, and arms, as well of the sea as of the rivers and coasts whatsoever of our said Province of F——, and the territories depending thereon, and maritime parts whatsoever of the same and thereto adjacent, as well within liberties and franchises, as without; to take cognizance of, and proceed in, all civil and maritime causes, and in complaints, contracts, offences, or suspected offences, crimes, pleas, debts, exchanges, accounts, charter-parties, agreements, suits, trespasses, injuries, extortions, and demands, and business civil and maritime whatsoever, commenced or to be commenced between merchants, or between owners and proprietors of ships and other vessels, and merchants or others whomsoever, with such owners and proprietors of ships and all other vessels whatsoever, employed or used within the maritime jurisdiction of our Vice Admiralty of our said Province of F——, and the territories depending thereon, or between any other persons whomsoever, had, made, begun, or contracted for any matter, thing, cause, or business whatsoever, done or to be done within our maritime jurisdiction aforesaid, together with all and singular their incidents, emergencies, dependencies, annexed or connexed causes whatsoever or howsoever, and such causes, complaints, contracts, and other the premises above said, or any of them, which may happen to arise, be contracted, had or done, to hear and determine ac-

cording to the rights, statutes, laws, ordinances, and customs anciently observed.

And moreover, in all and singular complaints, contracts, agreements, causes, and businesses civil and maritime, to be performed beyond the sea, or contracted there, howsoever arising or happening: and also in all and singular other causes and matters, which in any manner whatsoever touch or any way concern, or anciently have and do, or ought to belong unto the maritime jurisdiction of our aforesaid Vice-Admiralty in our said Province of F—, and the territories depending thereon, and maritime parts thereof, and to the same adjoining whatsoever; and generally, in all and singular all other causes, suits, crimes, offences, excesses, injuries, complaints, misdemeanors, or suspected misdemeanors, trespasses, regrating, forestalling, and maritime businesses whatsoever, throughout the places aforesaid, within the maritime jurisdiction of our Vice Admiralty of our Province of F— aforesaid, and the territories depending thereon by sea or water, on the banks or shores of the same howsoever done, committed, perpetrated or happening.

And also to enquire by the oaths of honest and lawful men of our said Province of F—, and the territories depending thereon, and maritime parts of the same and adjoining to them whatsoever, dwelling both within liberties and franchises and without, as well of all and singular such matters and things, which of right, and by the statutes, laws, ordinances, and the customs anciently observed were wont and ought to be enquired after, as of wreck of the sea, and of all and singular the goods and chattels of whatsoever traitors, pirates, manslaughterers, and felons howsoever offending within the maritime jurisdiction of our
Vice-

Vice-Admiralty of our Province of F—aforementioned, and the territories depending thereon, and of the goods, chattels, and debts of all and singular their maintainers, accessaries, councilors, abettors, or assistants whomsoever.

And also of the goods, debts, and chattels of whatsoever person or persons, felons of themselves, by what means, or howsoever coming to their death within our aforesaid maritime jurisdiction, wheresoever any such goods, debts, and chattels, or any part thereof, by sea, water, or land in our said Province of F—, and the territories depending thereon, and maritime parts of the same and thereto adjacent whatsoever, as well within liberties and franchises as without, have been or shall be found forfeited, or to be forfeited, or in being.

And moreover, as well of the goods, debts, and chattels, of whatsoever other traitors, felons, and manslaughterers wheresoever offending, and of the goods, debts, and chattels of their maintainers, accessaries, counsellors, abettors, or assistants, as of the goods, debts, or chattels of all fugitives, persons convicted, attainted, condemned, outlawed, or howsoever put or to be put in exigent for treason, felony, manslaughter, or murder, or any other offence or crime whatsoever; and also concerning goods waived, flotsen, jetson, lagon, shares and treasure found or to be found; deodands, and of the goods of all others whatsoever taken or to be taken, as derelict, or by chance found, or howsoever due or to be due; and of all other casualties, as well in, upon, or by the sea and shores, creeks or coasts of the sea, or maritime parts, as in, upon, or by all fresh waters, ports, public streams, rivers, or creeks, or places overflown whatsoever, within the ebbing
and

and flowing of the sea or highwater, or upon the shores and banks of any of the same within our maritime jurisdiction aforesaid, howsoever, whensoever, or by what means soever arising, happening or proceeding, or wheresoever such goods, debts, and chattels, or other the premises, or any parcel thereof may or shall happen to be met with, or found within our maritime jurisdiction aforesaid.

And also concerning anchorage, lastage, and ballast of ships, and of fishes royal, namely sturgeons, whales, porpoises, dolphins, kiggs, and grampusses, and generally of all other fishes whatsoever, which are of a great or very large bulk or fatness, anciently by right or custom, or any way appertaining or belonging to us.

And to ask, require, levy, take, collect, receive, and obtain for the use of us, and to the office of our High Admiral of Great Britain aforesaid for the time being, to keep and preserve the said wreck of the sea, and the goods, debts, and chattels of all and singular other the premises; together with all and all manner of fines, mulcts, issues, forfeitures, amerciaments, ransoms, and recognizances whatsoever forfeited or to be forfeited, and pecuniary punishments for trespasses, crimes, injuries, extortions, contempts, and other misdemeanors whatsoever, howsoever imposed or inflicted, or to be imposed or inflicted for any matter, cause, or thing whatsoever in our said Province of F——, and the territories depending thereon, and maritime parts of the same and thereto adjoining, in any Court of our Admiralty there held or to be held, presented or to be presented, assessed, brought, forfeited, or adjudged; and also all amerciaments, issues, fines, perquisites, mulcts, and pecuniary punishments
what-

whatsoever, and forfeitures of all manner of recognizances, before you or your Lieutenant, Deputy or Deputies in our said Province of F—, and the territories depending thereon, and maritime parts of the same and thereto adjacent whatsoever, happening or imposed, or to be imposed or inflicted, or by any means assessed, presented, forfeited, or adjudged, or howsoever by reason of the premises, due or to be due in that behalf to us, or to our heirs and successors.

And further to take all manner of recognizances, cautions, obligations, and stipulations, as well to our use, as at the instance of any parties, for agreements or debts, or other causes whatsoever, and to put the same into execution, and to cause and command them to be executed; and also to arrest, and cause and command to be arrested, according to the civil and maritime laws, and ancient customs of our said court, all ships, persons, things, goods, wares, and merchandises, for the premises and every of them, and for other causes whatsoever concerning the same, wheresoever they shall be met with, or found throughout our said Province of F—, and the territories depending thereon, and maritime parts thereof and thereto adjoining, as well within liberties and franchises as without; and likewise for all other agreements, causes, or debts, howsoever contracted or arising, so that the Goods or persons may be found within our jurisdiction aforesaid.

And to hear, examine, discuss, and finally determine the same, with their emergencies, dependencies, incidents, annexed and connexed causes and businesses whatsoever; together with all other causes, civil and maritime, and complaints, contracts, and all and every the respective premises

premises whatsoever above expressed, according to the laws and customs aforesaid, and by all other lawful ways, means, and methods, according to the best of your skill and knowledge.

And to compel all manner of persons in that behalf, as the case shall require, to appear and to answer, with power of using any temporal correction, and of inflicting any other penalty or mulct, according to the laws and customs aforesaid.

And to do and administer justice, according to the right order and course of law, summarily and plainly, looking only into the truth of the facts.

And to fine, correct, punish, chastise, reform, and to imprison, and cause and command to be imprisoned in any gaols, being within our Province of F—— aforesaid, and the territories depending thereon, the parties guilty, and the contemners of the law and jurisdiction of our Admiralty aforesaid, and violators, usurpers, delinquents and contumacious absenters, masters of ships, mariners, rowers, fishermen, shipwrights, and other workmen and artificers whatsoever exercising any kind of maritime affairs, according to the rights, statutes, laws, and ordinances, and customs anciently observed; and to deliver and absolutely discharge, and cause and command to be discharged, whatsoever persons imprisoned in such cases, who are to be delivered.

And to preserve, or cause to be preserved, the public streams, ports, rivers, fresh waters and creeks whatsoever, within our maritime jurisdiction aforesaid, in what place soever they be in our Province of F—— aforesaid, and the territories depending thereon, and maritime parts of the same and thereto adjacent whatsoever, as well for the preservation of our navy royal, and of the
 † fleets

fleets and vessels of our kingdom and dominions aforesaid, as of whatsoever fishes increasing in the rivers and places aforesaid.

And also to keep, and cause to be executed and kept, in our said Province of F—, and the territories depending thereon, and maritime parts thereof and thereto adjacent whatsoever, the rights, statutes, laws, ordinances and customs anciently observed.

And to do, exercise, expedite, and execute all and singular other things in the premises, and every of them, as they by right, and according to the laws and statutes, ordinances, and customs aforesaid should be done.

And moreover to reform nets too close, and other unlawful engines or instruments whatsoever for the catching of fishes wheresoever, by sea, or public streams, ports, rivers, fresh waters, or creeks whatsoever, throughout our Province of F— aforesaid, and the territories depending thereon, and maritime parts of the same and thereto adjacent, used or exercised, within our maritime jurisdiction aforesaid wheresoever.

And to punish and correct the exercisers and occupiers thereof, according to the statutes, laws, ordinances, and customs aforesaid.

And to pronounce, promulge, and interpose all manner of sentences and decrees, and to put the same in execution; with cognizance and jurisdiction of whatsoever other causes, civil and maritime, which relate to the sea, or which any manner of ways respect or concern the sea, or passage over the same, or naval or maritime voyages, or our said maritime jurisdiction, or the places or limits of our said Admiralty and cognizance aforesaid, and all other things done, or to be done.

With

With power also to proceed in the same, according to the statutes, laws, ordinances, and customs aforesaid, anciently used, as well of mere office mixed or promoted, as at the instance of any party, as the case shall require and seem convenient: and likewise with cognizance and decision of wreck of the sea, and of the death, drowning, and view of dead bodies of all persons howsoever killed or drowned, or murdered, or which shall happen to be killed, drowned or murdered, or by any other means come to their death, in the sea, or public streams, ports, fresh waters, or creeks whatsoever, within the flowing of the sea and high-water mark, throughout our aforesaid Province of F——, and the territories depending thereon, and maritime parts of the same, and thereto adjacent, or elsewhere within our maritime jurisdiction aforesaid.

Together with the cognizance of Mayhem in the aforesaid places, within our maritime jurisdiction aforesaid, and flowing of the sea and water there happening; with power also of punishing all delinquents in that kind, according to the exigencies of the law and customs aforesaid.

And to do, exercise, expedite, and execute all and singular other things, which in and about the premisses only shall be necessary or thought meet, according to the rights, statutes, laws, ordinances, and customs aforesaid.

With power of deputing and surrogating in your place for the premisses, one or more deputy or deputies, as often as you shall think fit; and also with power from time to time of naming, appointing, ordaining, assigning, making, and constituting whatsoever other necessary, fit, and convenient Officers and Ministers under you, for the said office, and execution thereof in our said Province

vince of F—, and the territories depending thereon, and maritime parts of the same, and thereto adjacent whatsoever.

Saving always the right of our High Court of Admiralty of England, and also of the Judge and Register of the said Court, from whom or either of them, it is not our intention in any thing to derogate by these presents; and saving to every one who shall be wronged or grieved by any definitive sentence or interlocutory decree, which shall be given in the Vice-Admiralty Court of our Province of F— aforesaid, and the territories depending thereon, the right of appealing to our aforesaid High Court of Admiralty of England.

Provided nevertheless, and under this express condition, that if you the aforesaid A. B. our Captain-General and Governor in Chief, shall not yearly, to wit, at the end of every year, between the feast of Saint Michael the Archangel and All Saints, duly certify, and cause to be effectually certified (if you shall be thereunto required) to us, and our Lieutenant Official, Principals, and Commissary-General and Special, and Judge and President of the High Court of our Admiralty of England aforesaid, all that which from time to time, by virtue of these presents, you shall do and execute, collect or receive in the premisses, or any of them, together with your full and faithful account thereupon, to be made in an authentic form, and sealed with the Seal of our Office, remaining in your custody, that from thence, and after default therein, these our Letters Patent of the Office of Vice-Amiralty aforesaid, as above granted, shall be null and void, and of no force or effect.

Further we do, in our name, command all and singular our Governors, Justices, Mayors, Sheriffs, Captains, Marshals, Bailiffs, Keepers of all our Gaols and Prisons, Constables, and all other our Officers and faithful Liege Subjects whatsoever, and every of them, as well within liberties and franchises as without, that in and about the execution of the premisses, and every of them, they be aiding, favouring, assisting, submissive, and yield obedience, in all things as is fitting to you, the aforesaid A. B. our Captain-General and Governor in Chief of our Province of F—— aforesaid, and to your Deputy whomsoever, and to all other Officers by you appointed, and to be appointed, of our said Vice-Admiralty of F——, aforesaid, and the territories depending thereon, and maritime parts of the same, and thereto adjoining, under pain of the law, and the peril which will fall thereon.

Given at London in the High Court of our Admiralty of England aforesaid, under the Great Seal thereof, the first day of January, in the year of our Lord 1783, and of our reign the * twenty-third.

(Signed) GODF. LEE TARRANT, Registrar.

The Commission of Captain-General and Governor in Chief, &c. is, in the first place, to be inrolled in the High Court of Chancery;—it is then to be recorded in the Treasury Chambers at Whitehall;—and lastly, in the Secretary's Office of that Province over which the Governor is appointed to preside.—The Commission of Vice-Admiral is to be registered in the High Court of

* This date is arbitrary, there being no Commission of a Vice-Amiral of that year.

Admiralty in England ; and in the Secretary's Office of the Province in which the Governor is appointed Vice-Admiral.

A Governor, on his arrival in the Province over which he is appointed to command, must (agreeable to the directions of his commission and instructions) in the first place, cause his commission of Captain-General and Governor in Chief, &c. and also of Vice-Admiral, to be read and published at the first meeting of the Council, and also in such other manner as hath been usually observed on like occasions ;—in the next place, he must take the oaths to Government, and administer the same to each of the Council, and then he must make and subscribe, and cause the Members of the Council to make and subscribe, the declaration against transubstantiation ;—he must then take the oath usually taken by the Governors in the Plantations, for the due execution of the office and trust of Captain-General and Governor in Chief in and over the Province to which he is appointed, and for the due and impartial administration of justice there, and he must also cause the oath of office to be administered to the Members of the Council ;—in the last place, he must take the oath (required to be taken by Governors of the Plantations) to do his utmost that the several laws relating to trade and the Plantations be duly observed ;—which oaths and declaration the Council of the Province, or any three of the Members thereof, are empowered to administer. —It is also usual for a Governor, when he enters on his office, to issue a proclamation for continuing all persons in their employments, until further order.

OATH of ALLEGIANCE *by the 1 Geo. I. ft. 2. c. 13.*

I A. B. do sincerely promise and swear, that I will be faithful, and bear true allegiance to his Majesty King George : So help me God.

OATH of SUPREMACY, *by the 1 Geo. I. ft. 2. c. 13.*

I A. B. do swear, That I do from my heart abhor, detest and abjure, as impious and heretical, that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, That no foreign Prince, Person, Prelate, State, or Potentate, hath, or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm : So help me God.

OATH of ABJURATION, *by the 6 Geo. III. c. 53.*

I A. B. do truly and sincerely acknowledge, profess, testify and declare in my conscience, before God and the world, That our sovereign Lord King George is lawful and rightful King of this realm, and all other his Majesty's dominions and countries thereunto belonging. And I do solemnly and sincerely declare, That I do believe in my conscience, that not any of the descendants of the person who pretended to be Prince of Wales, during the life of the late King James the Second, and since his decease pretended to be, and took upon himself the style and title of King of England, by the name of James the Third, or of Scotland by the name of James the Eighth, or the style and title of King of Great Britain, hath any
right

right or title whatsoever to the Crown of this realm, or any other the dominions thereunto belonging: and I do renounce, refuse and abjure any allegiance or obedience to any of them. And I do swear, That I will bear faith and true allegiance to his Majesty King George, and him will defend, to the utmost of my power, against all traiterous conspiracies and attempts whatsoever, which shall be made against his Person, Crown or dignity. And I will do my utmost endeavour to disclose and make known to his Majesty, and his successors, all treasons and traiterous conspiracies, which I shall know to be against him or any of them. And I do faithfully promise, to the utmost of my power, to support, maintain and defend, the succession of the Crown against the descendants of the said James, and against all other persons whatsoever; which succession, by an Act, intituled, An Act for the further limitation of the Crown, and better securing the rights and liberties of the subject, is and stands limited to the Princess Sophia, Electress and Dutchess Dowager of Hanover, and the heirs of her body, being Protestants. And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever. And I do make this recognition, acknowledgment, abjuration, renunciation, and promise heartily, willingly, and truly, upon the true faith of a Christian: So help me God.

**DECLARATION *against* TRANSUBSTANTIATION, by
the 25 C. II. c. 2. s. 9.**

I A. B. do declare, That I do believe that there is not any transubstantiation in the Sacrament of the Lord's Supper, or in the elements of bread and wine, at or after the consecration thereof by any person whatsoever.

**OATH of a GOVERNOR, for the due Execution of
his Office.**

You do swear, That you will faith and true allegiance bear unto his most Sacred Majesty King George the Third, and to his heirs and successors, and that you will well and truly execute the office and trust of Captain-General and Governor in Chief in and over the Province of F—, according to the best of your skill and knowledge, and according to the power to you granted by virtue of his Majesty's Letters Patent, bearing date at Westminster the 1st day of January, in the 23d year of his said Majesty's reign: So help you God.

By 12 Car. II. c. 18. intituled, An Act for the encouraging and increasng of shipping and navigation, s. 2. it is enacted, That all Governors of Plantations shall, before their entrance into their government, take a solemn oath, to do their utmost that all the matters and things in that Act contained, shall be punctually and *bona fide* observed, according to the true intent and meaning thereof; and if any Governor shall be willingly negligent in doing his duty accordingly, he shall be removed from his government.

By 15 Car. II. c. 7. intituled, An Act for the encouragement of trade, s. 8. it is enacted, That all Governors or Commanders of Plantations, &c.
shall,

shall, before their entrance upon the execution of such trust or charge, take a solemn oath, before such person or persons as shall be authorised by his Majesty to administer the same, to do their utmost within their respective governments or commands, to cause that Act to be truly observed, in relation to the trade of such Plantations, &c. under penalty of being removed out of their governments and commands;—and if any of them shall be found to have willingly offended, contrary to what by that Act is required of them, they shall be turned out of their governments, and be incapable of the government of any other Plantations, &c. and forfeit L. 1000; half to the King, and half to him that will sue for the same in any of the Plantations, or in any Court of Record in England.

By 7 & 8 Wil. III. c. 22. intituled, An Act for preventing frauds, and regulating abuses in the Plantation trade, s. 4. it is enacted, That all Governors and Commanders in Chief of English Colonies or Plantations, before their entrance into their government, shall take a solemn oath, to do their utmost that all the clauses, matters, and things contained in that Act, and the Acts therein recited, relating to the said Colonies and Plantations, be punctually and *bona fide* observed, according to the true intent and meaning thereof, (which oath shall be taken before such person or persons as his Majesty shall appoint); and upon complaint and proof, made by the oath of two or more credible witnesses, that any Governors or Commanders in Chief have neglected to take the said oath at the times aforesaid, or have been willingly negligent in doing their duty accordingly, the Governor so neglecting or offending, shall be removed from his government, and forfeit L. 1000.

• And by 8 & 9 Wil. III. c. 20. s. 69, all Governors and Commanders in Chief of any English Colonies or Plantations shall, at their entrance upon their respective governments, or within the space of six months after the same, take a solemn oath to do their utmost, that all the clauses, matters, and things contained in the Acts of Parliament therein recited, or any of them theretofore passed, and then in force, relating to the said Colonies and Plantations, should be punctually and *bona fide* observed, according to the true intent and meaning thereof (which oath shall be taken before such person or persons as shall be appointed by his Majesty, his heirs or successors, who are thereby authorised to administer the same), so far as appertains to the Governors or Commanders in Chief respectively.

See also 4 Geo. III. c. 15. intituled, An Act for granting certain duties in the British Colonies and Plantations in America, &c. s. 39; which section (after reciting the 4th section of the 7 & 8 Wil. III. c. 22. relative to Governors of Plantations, which 4th section is herein before recited) enacts, That all Governors or Commanders in Chief of any British Colony or Plantation shall, before their entrance into their government, take a solemn oath, to do their utmost that all the clauses, matters, and things contained in any Act of Parliament theretofore made, and then in force, relating to the said Colonies and Plantations; and that all and every the clauses contained in that Act should be punctually and *bona fide* observed, according to the true intent and meaning thereof; so far as appertains unto the said Governors or Commanders in Chief respectively, under the like penalties, forfeitures, and disabilities, either for neglecting to take the said oath, or for wittingly

tingly neglecting to do their duty accordingly, as are mentioned and expressed in the said Act of the 7 & 8 Wil. III.; and that the oath thereby required to be taken, shall be administered by such person or persons as had been, or should be, appointed to administer the oath required to be taken by the 7 & 8 Wil. III.

The OATH to be taken by every Governor and Commander in Chief of any Colony or Plantation, to do his utmost that all Acts of Parliament, relating to the Colonies and Plantations be punctually observed.

You do swear, That you will, to the best of your skill and power, so long as you shall continue in the government and command of his Majesty's Province of F——, well and truly execute and perform all matters and things which, by the statute made in the 12th year of the reign of King Charles the Second, intituled, An Act for the encouraging and increasing of shipping and navigation; and the other statute made in the 15th year of his said Majesty's reign, intituled, An Act for the encouragement of trade; and also the Act made in the 7th & 8th years of the reign of his late Majesty King William, intituled, An Act for preventing frauds, and regulating abuses in the Plantation trade; and also all other Acts which have been made, and are in force, for the better regulating and securing the Plantation trade, you are required, as Captain-General and Governor in Chief of the said Province, to be sworn to the performance of: So help you God.

Every Governor of a Colony, together with his commission, receives a large body of instructions, a copy of which I have by me, but the whole are

too voluminous to be inserted here : nor does the Editor chuse to publish them all, unless (in case of another Edition of this Work) he obtains leave from Government to insert them therein at length.

Every Governor of a Province, by his commission of Captain-General and Governor in Chief, and by his commission of Vice-Admiral, and the instructions which accompany them, is vested with the following powers :

1. He is Captain-General of the forces by sea and land within his Province; and where a Provincial Establishment or King's Government joined a Charter-Colony, it was usual to make the Governor of the Provincial Establishment Captain-General of the forces by sea and land within such Charter-Colony, as I have already observed. The Governor has also the appointment of all Militia Officers.

2. As Governor in Chief, he is one of the constituent parts of the General Assembly of his Province, and has the sole power of convening, adjourning, proroguing, and dissolving the General Assembly; he may also give or refuse his assent to any bill which has passed the Council and Assembly. The Governor has also the disposal of such employments as his Majesty does not dispose of himself; and with respect to such offices as are usually filled by the immediate appointment of his Majesty, if vacancies happen by death or removal, the Governor appoints to such offices until they are filled up from home; and the persons appointed by the Governor receive all the profits and emoluments of such offices, until they are superseded by the King's appointment of others.

3. The

3. The Governor has the custody of the Great Seal, and is Chancellor within his Province, with the same powers of judicature that the Lord High Chancellor has in England.

4. The Governor is Ordinary within his Province; and by virtue of the King's Commission, he collates to all vacant Benefices: he hath also the power of granting Probate of Wills, and Administration of Intestates Effects, by virtue of his instructions.

5. The Governor presides in the Court of Errors, of which he and the Council are Judges, to hear and determine all appeals, in the nature of Writs of Error, from the Superior Courts of Common Law in the Province.

6. The Governor is usually named first in the standing commission, issued under the 11 & 12 Wil. III. c. 7. for the more effectual suppression of piracy.

7. The Governor is also Vice-Admiral within his Province; but he does not sit in the Court of Vice-Admiralty, there being a Judge of that Court, who is usually appointed from England. —In time of war, commissions to privateers are issued by the Judge of the Court of Vice-Admiralty, in consequence of a warrant from the Governors.

1. As to the office of Captain-General—the Governor, as Captain-General of the forces by sea and land, had formerly the command, not only of the militia, but also of all the regular forces within his Province; and every West India Governor has at present the command of the militia, and also of the regulars within the Island, unless a General Officer is on the spot; but it was found necessary to take away, in a great measure, from the Governors on the Continent, the
command

command of such regular forces as might happen to be within their respective Provinces, and to appoint a Commander in Chief of all the regular forces in the British Colonies on the Continent of America, independent of every Provincial Governor; in order (as it is supposed) that such Commander in Chief of the forces might, in case of an Indian war, or a foreign invasion, be able to collect his Majesty's troops together, to defend that part of the Continent which was attacked by the enemy. Had the command of the King's forces been continued in the Provincial Governors, each of whom was Commander in Chief in his own Province, there would have been no superior to direct the removal of the regulars to that part of the Continent which was attacked by, or in danger from an enemy; or the Governors of those Provinces under whose jurisdiction the regular forces happened to be, might, from an affectation of importance, from disputes between them, or from an ill-founded apprehension of danger to their own Provinces, prevent the troops from marching to those places where his Majesty's service required their presence. However, all Provincial Governors have yet the command of the militia within their respective Provinces, and the appointment of all Militia Officers.

And with respect to the regulars before the Civil War, where the Commander in Chief of the forces, or Brigadier-General of the district, had given no specific orders, the Civil Governor might have interfered in such instances as are set forth in his Majesty's orders, which follow, viz.

His

His MAJESTY'S ORDERS, ascertaining the Power and Authority of the Civil Governors over his Majesty's forces stationed in the respective Provinces in North America.

His Majesty's intentions are, that according to his commissions granted for that purpose, the orders of his Commander in Chief, and under him of the Brigadiers General, commanding in the Northern and Southern Departments, in all military affairs, shall be supreme, and must be obeyed by the troops as such, in all the Civil Governments in America.

That, in cases where no specific orders have been given by the Commander in Chief, or by the Brigadier-General commanding in the district, the Civil Governor in Council, and where no Council shall subsist, the Civil Governor may, for the benefit of his government, give orders for the marching of troops, the disposition of them, for making and marching detachments, escorts, and such purely military services within his government, to the Commanding Officer of the troops, who is to give proper orders for carrying the same into execution; provided they are not contradictory to, or incompatible with, any orders he may have received from the Commander in Chief, or the Brigadier General of the district.

And the Commanding Officer is, from time to time, duly to report, with all convenient expedition, to the Commander in Chief, or to the Brigadier General, such orders as he shall have received from the Civil Governor.

That the Civil Governor shall give the word, in all places where he shall be within his Province, except where the Commander in Chief, or Brigadier-General, shall be in th

That the return of the state and condition of of the troops, magazines, and fortifications, shall be made to the Governors, as well as to the Commander in Chief and Brigadier-General.

That the Civil Government is not to interfere with the detail of the military regimental duty and discipline; the reports concerning which are to be made to the commanding Officer, who is to make his general report to the Civil Governor.

When the Commander in Chief or Brigadier-General shall be present, all military orders are to be issued by them only.

On the establishment of the Staff of the Army in North America, it became necessary to settle the rank and precedence of the Officers of the Army, and of the Governors and Commanders in Chief of Provinces: which establishment, before the Civil War, was as follows;

RANK and PRECEDENCY of the Commander in Chief of his Majesty's forces, Governors, Lieutenant Governors, and Commanders in Chief of his Majesty's Provinces, Colonels, and other Field Officers of his Majesty's troops in North America, as established by the King, under his royal Sign Manual. Given at St. James's, December 17th 1760.

GEORGE. R.

1. The Commander in Chief of our forces, by Commission under our Great Seal of Great Britain.

2. Captains General and Governors in Chief of our Provinces and Colonies, when in their respective governments, as appointed by Commission under our Great Seal of Great Britain.

3. General Officers upon the Staff.

4. Captains-General and Governors in Chief of our Provinces and Colonies, when out of their respective governments.

5. Lieutenant-Governors and Presidents of Council, when Commanders in Chief of our Provinces and Colonies, in their respective governments.

6. Colonels.

7. Lieutenant-Governors and Presidents of Council, when Commanders in Chief of our Provinces and Colonies, out of their respective governments.

8. Lieutenant-Governors of our Provinces and Colonies, not being Commanders in Chief, in their respective governments.

9. Lieutenant-Governors of our Provinces and Colonies, not being Commanders in Chief, out of their respective governments.

10. Governors of Charter Colonies, when in their respective Colonies.

11. All Field Officers under the rank of Colonels.

12. Lieutenant-Governors of Proprietary Governments, out of their respective governments.

13. Governors of Charter Colonies, out of their respective Colonies.

All Captains-General and Governors in Chief of our Provinces and Colonies, to take rank according to the dates of their Commissions.

All Lieutenant-Governors of our Provinces, the same.

All Lieutenant-Governors of Proprietary Governments, the same.

Governors of Charter Colonies according to the date of their Charters.

It may not be improper to insert in this place the rules of precedence between men and women in America.

RULES of PRECEDENCY compared and adjusted from the several Acts and Statutes made and provided in England, for the Settlement of the Precedency of MEN and WOMEN in AMERICA. By Joseph Edmonson Mowbray, Herald.

Governor of the Province,	His Wife.
Lieutenant Governor,	His Wife.
President of the Council,	His Wife.
Members of his Majesty's Council,	Their Wives.
Speaker of the Commons House of Assembly,	} His Wife.
Chief Justice,	
Treasurer,	His Wife.
Associate Judges,	His Wife.
Baronets,	Their Wives.
His Majesty's Attorney General,	Their Wives.
Judge of the Admiralty,	His Wife.
Secretary of the Province,	His Wife.
Members of the Commons House of Assembly,	} Their Wives.
Mayor,	
Aldermen,	His Wife.
Members of the Corporation,	Their Wives.

The Members of the Assembly, Crown Officers, &c. of any particular Province, have no other rank out of their Province, than what belongs to them in their private capacity as men.

The Widow of a late Governor has not any precedence as such.

A Governor of one Province, or his Wife, coming into another Province, have not, in that Province where they visit, any precedence above their rank in private life.

2dly, As Governor in Chief, the Governor of every Provincial Establishment, hath the sole power of convening, adjourning, proroguing, and dissolving

dissolving the General Assembly, and neither House of Assembly could adjourn itself longer than from Saturday to Monday. But see more on this head in Chap. 7.

3dly, The Governor has the custody of the Great Seal: and in most of the Colonies he (or in case of his death or absence from the government, the Commander in Chief for the time being) is sole Chancellor; but in the Islands of Barbadoes, Antigua, and Montserrat, in the West Indies, the Council sit as Judges in the Court of Chancery with the Governor; however the Chancery Process is issued by the Governor, and tested in his name. In South Carolina, also before the Civil War, the Council sat as Judges with the Governor in the Court of Chancery.

The proceedings in Chancery in the Colonies, are similar to those of the High Court of Chancery in England; and the books of practice used in England, govern the practice of the Chancery in the Colonies, except in a few trifling instances, which are varied, according to the local circumstances of the Colonies.

In the government of the Leeward Charibbee Islands, they have upwards of fifty rules and orders of practice in the High Court of Chancery, throughout those Islands, most of which have been extracted from the books of practice in England, and are therefore not worth transcribing, except the 4th, which has been productive of so much mischief, that I cannot avoid taking notice of it.

4. " That all services of Subpœna's shall be on
 " the party himself, or left at his dwelling house
 " with one of his family, or at his place of residence;
 " or, if the party be off the Island, at his
 " last place of residence, if he, or s^r -

“Attornies, Agents, or Guardians; and if he
 “or she hath any Attornies, Agents, or Guar-
 “dians, service of Subpœna shall be good on
 “such Attorney, Agent, or Guardian.”

This rule has been construed much to the injury of creditors, as will appear from the practice that has prevailed in those Islands, which I shall exemplify, by stating a case that frequently happens.

A person formerly resided for a short time in one of the Leeward Charribbee Islands, but left it many years ago, and is settled in England. He has a just demand against an inhabitant of one of the Leeward Islands, and sends out a power of Attorney, in order to enable some person there to proceed at common law for the recovery of such debt: the Attorney accordingly does proceed; and the debtor has no defence to make; but, for the purpose of gaining time, he files a Bill in Chancery against the Plaintiff at Law, causes a copy of the Subpœna to be left at his last place of abode, and then procures the person, who served it, to make affidavit, that he left a copy of such Subpœna at the last place of abode of the creditor; although perhaps such creditor left the Island a dozen years before, and the debt has been recently contracted. The Plaintiff at Law being in England, cannot put in an answer by the time prescribed by the rules of the Court; and whether process of contempt issues, or a *dedimus* is prayed to take his answer; in either case, an injunction goes, and the Plaintiff at Law is kept out of his just debt for a long time.

Some merchants and tradesmen in England will remember this practice, to their sorrow.

The Chancery Process in the Colonies, is copied from the Process of the High Court of Chancery

cery in England, except that the Subpœna is made returnable immediately; and, in case of a contempt, the Plaintiff (when a commission of rebellion is returned *non est inventus*) proceeds to sequestration, without an order for a Serjeant at Arms.

In drawing a bill in Chancery in the Colonies, at the top of the Bill, on the left hand, you mention the name of the Island or Province, thus:

Antigua in }
Chancery, }

or

Nova Scotia }
in Chancery. }

At the top of the Bill, on the right hand, you direct the Bill thus:

To his Excellency George Thomas, Esq; Captain General and Governor in Chief in and over all his Majesty's Leeward Charibbee Islands in America, and Chancellor, Vice Admiral, and Ordinary of the same.

Or, if it is in a Province on the Continent, thus:

To his Excellency A. B. Esq; Captain General and Governor in Chief in and over his Majesty's Province of Nova Scotia, and Chancellor, Vice Admiral, and Ordinary of the same.

You then begin the Bill, thus:

"Humbly complaining, sheweth
"Excellency, your Orator, &c"

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And so proceed as in other cases, using the words, "Your Excellency," instead of "Your Lordship."

Before the Civil War, the style of a Governor of Virginia, was different from that of any other Governor, and was as follows:

"His Excellency John Earl of Dunmore, his Majesty's Lieutenant and Governor General of the Colony and Dominion of Virginia, and Vice Admiral of the same."

An appeal lies from the decision of a Court of Chancery in the Colonies, to his Majesty in Council, provided the value of the property in dispute exceeds five hundred pounds sterling; but for further directions on this head, see title, Appeal.

If a Defendant in Chancery is litigious, he may occasion great delay to the Plaintiff; for an appeal lies from an interlocutory order made by a Court of Chancery in the Colonies, to his Majesty in Council; and so *toties quoties*; by which means, the Plaintiff may be kept out of his just demand many years.

When the Governor happens to be a Lawyer, the business is properly conducted. A Civilian was Governor of Barbadoes, and a common Lawyer of Georgia, for many years; during their administration, the government of those Colonies was carried on with much reputation, and greatly to their credit. But when the Governor is not a Lawyer, he is generally under the influence of some Counsel or Attorney, who makes his decrees for him, and frequently directs every other act of government. If this tutor happens to be a man of integrity and abilities, the business goes on well; but if he is a rash ignorant man, the Governor is led into many imprudent measures, and perhaps is recalled in disgrace. I shall mention

tion some instances of inattention in Governors, which may serve as a caution to others.

When I was in the West Indies, I saw a grant of lands in one of the Ceded Islands, in which the King was made to say, that he granted those lands, "with the advice and *consent* of the Governor," as if a Governor's consent was necessary, to enable the King to grant away his own lands. I believe most of the grants in those Islands run in that form.

A Governor in the West Indies assented to an Act of Assembly for bringing down fresh water to the town of B——, &c. which Act was to be executed by the Council and Assembly; and amongst other powers which they gave themselves, was the following very extraordinary one, "That where any doubt or difficulties should arise, touching the meaning or construction of that Act, or any defects should appear in the powers thereby invested in the Commissioners, the same should and might be explained, corrected, amended, supplied, and enlarged, by any order or declaration to be made, by the Council and Assembly of that Island."

The Commissioners were the Council and Assembly; and this clause of the Act gave them a power of legislation independent of the Crown, and erected them into a Court of Judicature, by which means, the legislative and judiciary powers were united in the same body of men, and the Council and Assembly were rendered perfectly despotic with respect to the subject matter of that Act. I told the Governor that this Act would be disallowed by the King; and so it turned out. In the last reign, a man was convicted of a capital crime in a Province on the Continent, and, agree-
usual practice, a Rule of Court was
made

made for his execution on a day certain : the Governor (who was a military man) ordered the Provost Marshal to hang up the convict before the day appointed for his execution, which was accordingly done. The Governor was said to be a well meaning man ; but, perhaps, he might think, that as he had a power to reprieve, he had therefore a right to order the execution, whereas he was committing felony. 1 Hawkins P. C. 70.

Some military Governors, instead of taking the trouble to loose the Gordian knot of the law, have cut it through with the sword.

In Barbadoes, Antigua, Montserrat, and South Carolina, it should seem that the Governors assented to Acts of Assembly, to enable the Council to sit as Judges in the Court of Chancery, without adverting to the consequences of it. By an Act of Assembly in the Island of Antigua, made in the year 1715, reciting that by long experience, great corruptions, delays, and other inconveniencies, had been found by Courts of Chancery being held in that Island by one person ; for preventing the like evils, and that the inhabitants of Antigua might be under the same regulation, and enjoy the same advantage that Barbadoes had for many years past, to the great encouragement of trade, and general satisfaction of all his Majesty's good subjects in that Island, it was enacted, That from thenceforth all Courts of Chancery holden for the Island of Antigua, should consist of the Captain General or Governor in Chief of the said Leeward Islands for the time being, and five or more of the Council of that Island, except where any Councillor happened to be a party, and then three Councillors should be sufficient.

Notwithstanding this specious recital, I am inclined to think that the making the Council in Antigua

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Antigua Judges in the Court of Chancery with the Governor, has been productive of several inconveniencies.

In those Islands where the Governor is sole Judge in Equity, and holds a Court of Chancery whenever he is applied to for that purpose, should an Advocate have occasion to make a motion in Chancery, he waits on the Governor, without any previous notice; and if a cause is to be heard, a short notice is sufficient, that the Governor may be in the way, and disengaged from other business. The Court of Chancery is therefore always open for those Islands, in which the Governor is sole Chancellor; but, in Antigua and Montserrat, five Councillors must be summoned, and attend, before a common motion can be made in the Chancery of that Island. And as the Governor seldom goes to Montserrat, and the Council there cannot hold a Court of Chancery without him, the inhabitants of that Island will labour under great inconveniencies, until the Act of Assembly respecting the Court of Chancery is repealed, and the Governor again becomes sole Chancellor of that Island.

Again, in general, a Governor has fewer connections in the country, and is less liable to influence than any one of the Council, who, for the most part, are natives. A gentleman, who has interest to get a government, must be a man of some character and distinction; he is responsible for his conduct, and has at stake the loss of office: when he sits alone (be his disposition what it may) he will hardly venture to commit any flagrant acts of injustice. But when a dozen Councillors are placed on the bench with him, *defendit numerus*; and, if they are inclined to do
they keep each other in countenance;
irteen to the censure
amongst

amongst them. It very seldom happens, that either of these Councillors has been bred to the law; and a Governor can have little assistance, and the country little benefit from a dozen gentlemen being placed on the Chancery Bench, who know nothing of law. Besides, in such small countries as Barbadoes, Antigua, and Montserrat, scarce any cause can come on, in which all that sit on the bench are totally uninterested. Where the Governor is sole Chancellor, if any doubt arises in the progress of a cause, he may take time to consider what decree to make; but where the Council sit as Judges with him, I apprehend they generally decide off hand; for any doubt would occasion a fresh meeting.

One of the most extraordinary decisions I ever met with, was in the Court of Chancery in a Colony, where the Council sat as Judges with the Governor, and at a time when many of the Council sat on the bench.

A bill was filed, and a *ne exeat* obtained. The Defendant gave notice of motion to discharge the *ne exeat*; which being irregular, the Court seemed inclined to discharge it. The Plaintiff's Counsel, encouraged at this disposition in the Court, altered his application, and moved to dismiss the bill; which the Court ordered accordingly. Now I will not take upon me to say, that the case disclosed by the Plaintiff in his bill was sufficient to found a decree in his favour; nay, to place the conduct of the Council in the most favourable point of view, I will even admit that the bill would have been dismissed at the hearing: yet I apprehend, this was the first instance of a bill's being dismissed on a motion, for want of merits, without even a previous notice for that purpose, or the least pretence, that the Plaintiff had neglected to prosecute his cause according

garding to the rules of the Court. Had the gentlemen of the Council looked into any common book of practice, they might have seen that a bill could not be dismissed before hearing, unless for want of prosecution; or where the Plaintiff proceeded to sue both at law and in equity for the same thing, and refused to make his election (in which Court he would proceed) within the time prescribed by the Court. I must do the Governor the justice to say, that the matter was carried before it came to his turn to give his voice, and therefore he did not vote at all; and it seemed to me, that what he said, did not tend to an approbation of what was done.

4. The Governor is ordinary within his Province; and by virtue of the King's Commission, he collates to all vacant benefices. He hath also the power of granting probate of wills and administration of intestates effects, by virtue of his instructions.

I have not the laws of South Carolina by me; but in that Province, one of their Governors formerly assented to an Act of Assembly, by which the parochial Clergy were put entirely in the power of the vestries, who could force a minister to quit at any time, by refusing to give him a certificate to enable him to receive his salary. The Vestries carried this power to such a length, that for some years before the Civil War, they would not permit a Minister to apply to the Governor for collation; but the Clergy continued to officiate merely during the pleasure of the Vestries. The Clergy in America do not receive tithes, but in most of the Colonies before the Civil War (except the New England Provinces, where the Independents had the upper hand), an Act of Assembly was made, to divide the Colony into
and to establish religious worship therein,
according

according to the rites and ceremonies of the Church of England, and also to raise a yearly salary for the support of each parochial minister; but in most of these Acts of Assembly, there was a clause, which provided, that no Minister should exercise any ecclesiastical jurisdiction.

In some Colonies, the Minister's stipend or salary was raised in money; in others, the Act of Assembly directed it to be raised in sugar, and in Virginia it was raised in tobacco; but, as the quantum of the salary, and the mode of raising it, were different in almost every Colony, it would be endless to take notice of all the Acts of Assembly that were made for that purpose.

On the breaking out of the Civil War in America, most of the Clergy of the Church of England adhered to their loyalty, and acted a part suitable to the blessed religion which they preached. But the propriety of their conduct, and the sacred order to which they belonged, did not protect them from the persecution of their enemies. Many of them have taken shelter in Great Britain, and others in different Colonies. I met several of them at New York, and frequently attended divine worship at the City Hall, where they preached in rotation. I was much edified with their truly gospel doctrine, for their discourses were intended to mend the heart, and not to mislead the head with fine spun theories; and they delivered themselves with that zeal, which distinguishes those who feel what they preach to others. Amongst men of this primitive stamp, I should mention Mr. Leaming, and the two Sayers from Connecticut, was it not that good men are dead to the applause of the world, and look for their reward in another country, where merit will not be mistaken or overlooked.

The following form of a Collation will answer the purpose of a precedent in any Colony.

ANTIGUA. By the Honourable A. B. Esq;
President of the Council of his Majesty's Island of St. Christopher, and Commander in Chief, Chancellor, Vice Admiral, and Ordinary for the time being in and over all his Majesty's Leeward Charibbee Islands in America.



HIS Majesty having been graciously pleased by Letters Patent under the Great Seal of Great Britain to authorise me to collate orthodox Ministers to all and every the parishes in the said Islands; and the parish of St. John, in the Island of Antigua, being vacant by the death of the late incumbent, and the Rev. C. D. Clerk, being recommended to me as a person well qualified to take on him the Cure of Souls in the said Parish, I do hereby constitute and collate the said C. D. to be Clerk Minister of the said Parish of St. John, in the said Island of Antigua, with full power to have, hold, receive, and enjoy all such rights, dues, perquisites, and advantages, as do, or of right may belong to him, either by law or custom.

To the Churchwardens and Vestry of the Parish of St. John, in the Island of Antigua.

Given under my Hand and Seal at Arms in the Island of St. Christopher, and countersigned by my Secretary the 28th day of January 1767, and in the seventh year of his Majesty's reign.

By his Honour's Command, A. B.
E. F. Deputy Secretary.

In

✱ In the government of the Leeward Charibbee Islands, there are a Captain General and Governor in Chief, and a Lieutenant General of all the Islands; and there are also Lieutenant Governors of the Islands of Antigua, Montserrat, Nevis, and Saint Christopher's respectively. In the death or absence of all those, the Senior Member of the Council of the Island of Saint Christopher's, is Commander in Chief for the time being. There is at present a Lieutenant Governor of Tortola, and the other Virgin Islands; but I apprehend, that he is subordinate to the Members of the Council of the several Islands first abovementioned, and that each of them would, in succession, take the command of the Leeward Charibbee Islands before him. There was also a Lieutenant General of the Southern Charibbee Islands whilst they formed one government, but one of those Islands hath been lately ceded to France, and the other three are separate governments.

The power of a Governor of a Colony, to grant probate of Wills, is delegated to him by his instructions. In the Ecclesiastical Courts in England, there are two methods of proving a Will; one in common form, by the oath of the Executor; the other *per testes*. Floyer's Proctors Practice 120. Hetley 77.

In the West India Islands, that I am acquainted with, every will is proved *per testes*, or at least *per testem*, by one of the subscribing witnesses thereto, unless they are all out of the Island; and in that case, it is usual for one of the executors, and some person who is acquainted with the hand-writing of the Testator, to go before the Ordinary, and make oath, that they are acquainted with the Testator's hand-writing, and that they believe

believe the name subscribed to the Will is of his hand writing; and the executor farther swears, that the writing produced, is the Last Will and Testament of the Testator; but where either of the subscribing witnesses is on the spot, and attends to prove the Will, the executor takes no oath, nor does he return any inventory into the Secretary's Office: however, the Will and Probate are always carried to the office, to be registered at full length. In those Islands, where there is no particular Register's Office for registering Deeds and Wills, they are then lodged in the Secretary's Office for that purpose.

In case of a Will, to which there is no subscribing witness, or of the notes of a Will, or of a Testamentary Schedule, they proceed as near to the practice of the Ecclesiastical Courts in England, as local circumstances will admit.

In most of the Colonies on the Continent before the Civil War, a Will was proved in common form by the executor's going before the Ordinary (or before some person by him deputed for that purpose), and making oath, that the writing produced was the Last Will and Testament of the Testator; that he would produce to the appraisers, that should be appointed by the Ordinary, all the goods, &c. of the Testator, that should come to his hands, possession, or knowledge; and that he would well and truly administer all and singular the goods, &c. of the Testator, and pay his debts and legacies, as far as his estate would extend, and the law charge him (the executor); and that he would make a true inventory of the rights and credits of the Testator, and exhibit the same, together with the appraisement of his goods and chattels, certified under the hands of the appraisers, into the Secretary's Office of the Province,

vince, within the time prescribed by law. The appraisers also took an oath, to make a just and true appraisement, and to return the same, under their hands, to the executor, within the time prescribed by law. This was the substance of those two oaths; but they were usually set out at large in the Act of Assembly, which pointed out the duties required of executors and administrators.

In the Ecclesiastical Courts in England, if a party is contumacious, they proceed to excommunication; and then, on a certificate from the Bishop to the King in Chancery, a writ *de Excommunicato Capiendo* issues; but the Ordinary's jurisdiction in such of the Colonies, as I am acquainted with, was defective in this, that the Ordinary had no power to compel obedience to his sentence. Some years ago, a Lieutenant Governor of South Carolina (who commanded in the absence of the Governor) did proceed to excommunicate a contumacious party; but I never heard what became of it. However, in some Colonies, they might have had Acts of Assembly, for strengthening the hands of the Ordinary.

In the West Indies, the Probate or Affidavit of the due execution of a Will, is always written either under, or on the back of the will; when it is written under the Will, it is in the following form:

ANTIGUA. Before his Excellency G. T. Esq;
Captain General and Governor
in Chief in and over all his
Majesty's Leeward Charibbee
Islands in America, and Chan-
cellor, Vice Admiral, and Or-
dinary of the same.

PERSONALLY appeared W. B. of the said
Island of Antigua, Surgeon, one of the sub-
scribing

scribing witnesses to the before written Will of E. M. late of the said Island of Antigua, Widow, deceased, who being duly sworn on the Holy Evangelists of Almighty God, maketh oath, and saith, That he was present, and did see the said E. M. make her mark over against the Seal, at the foot of the said before written Will; and that the said E. M. did sign, seal, publish, and declare the before writing as and for her Last Will and Testament, in the presence of this Deponent, and of the other subscribing witnesses thereto, who subscribed their names to the said before written Will, in the presence of the said Testatrix, and in the presence of each other: And this Deponent further saith, he verily believes, in his conscience, that the said E. M. was, at the time of her executing her said Will, of sound and disposing mind, memory, and understanding: And this Deponent further saith, That the name or letters W. B. subscribed as a witness to the said Will, and that the names J. M. and M. O. also subscribed as witnesses to the said Will, are of the respective proper hand-writing of this Deponent, and of J. M. of the said Island of Antigua, Pilot, and M. O. of the said Island of Antigua, Widow.

W. B.

Sworn before me, this
day of October,
in the year of our
Lord 1764.

When the Probate is written on the back of the Will, it must be varied accordingly, by using the words, "the within written Will." Instead of the words, "the before written Will."

In the Island of Jamaica, where the subscribing witnesses to a Will, live at a distance, it is usual to sue out a Dedimus, to empower Commissioners to take

take the affidavit of the subscribing witnesses (or one of them) of the due execution of the Will.

D E D I M U S.

JAMAICA.

George the Second, by the grace of God of Great Britain, France, and Ireland, King, and of Jamaica, Lord, Defender of the Faith, &c. To our trusty and well-beloved Thomas Frowers and Nicholas Plifham, of the parish of Portland, Esqrs; Know ye, That we have constituted, authorized, and appointed, and by these presents do constitute ye, or either of ye, to administer an oath unto Alexander Wilfon, Joseph Barnett, and Samuel Orr, or any other that are witnesses, and can make oath of the signing, sealing, publishing, and declaring, of the last Will and Testament of R—J—, late of the parish of Portland, planter, deceased; and thereof you, or either of you, are to make due return, under your, or either of your hands and seals, unto our Captain-General and Governor in Chief of our said Island, or to the Governor in Chief of the same for the time being, with this power annexed; so that such proceedings may be ordered therein as may be according to law—Witness his Excellency Edward Trelawny, Esq; Captain-General and Governor in Chief of our said Island at St. Jago de la Vega the twenty-eighth day of January, in the year of our Lord One thousand seven hundred and forty seven, and in the twenty-first year of our reign.

EDWARD TRELAWNY.

Passed the Secretary's Office—
WASEL BRISCOE,
Secretary.

(L. S.)

The

The Return indorsed on the *Dedimus*.

The return of the within *Dedimus* appears by the schedule annexed.

NICHOLAS PLISHAM.

Affidavit of the due Execution of the Will, taken before one of the Commissioners.

Memorandum, this sixteenth of September one thousand seven hundred and forty-eight, personally appeared before me, Alexander Wilson of the parish of Portland, planter, one of the subscribing witnesses to the annexed will of R— J—, who being duly sworn by virtue of the *Dedimus* annexed, made oath, That he was present and did see R— J— the testator, being then of sound mind and memory, sign, seal, publish, and declare the said annexed Will as and for his Last Will and Testament, and that at the same time Joseph Barnett and Samuel Orr were present, and subscribed their names as witnesses to the same, in the presence of the said Testator: he likewise makes oath, That he knows nothing of any other Will or Wills since made by the said Testator, in prejudice of said annexed Will.—Sworn before me the day and year above written.

NICHOLAS PLISHAM.

L. S.

ALEX. WILSON.

The *Dedimus*, Will, and the Affidavit of the Execution of the Will, must be annexed together, and then returned into the Secretary's Office.

In the Province of Pennsylvania (which was a Proprietary Government at the Civil War) wills were attested by the Secretary General: and

and a Probate out of his Office in Philadelphia was in the following form :



SEAL.

By the tenor of these presents, I William Plumsted, Register-General for the Probate of Wills, and granting Letters of Administration in and for the Province of Pennsylvania, do make known unto all people, That on the day of the date hereof, at Philadelphia in the Province aforesaid, before me was proved, approved, and insinuated, the Last Will and Testament of D— P— deceased (a true copy whereof is to these presents annexed), having whilst he lived, and at the time of his death, divers goods, chattels, rights and credits within the said Province, by means whereof the approbation and insinuation of the said Last Will and Testament, and the committing the administration of all and singular the goods, chattels, rights and credits which were of the said decedent, and also the auditing the accompts, calculations, and reckonings of the said administration, and a final dismissal from the same to me is manifestly known to belong, and administration of all and singular the goods, chattels, rights and credits of the said decedent any wise concerning ; and his Last Will and Testament was committed to M— P—, executrix in the said Testament named, chiefly of well and truly administering the goods, chattels, rights and credits of the said decedent, and making a true and perfect inventory thereof, and exhibiting the same into the Register-General's Office at Philadelphia, at or before the 23d day of January next ; and rendering a true and just account, calculation, and reckoning of the said administration, when thereunto lawfully required, being duly sworn thereto.

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In testimony whereof I have hereunto set my hand and Seal of Office, at Philadelphia, the 23d day of December, in the year of our Lord one thousand seven hundred and sixty-two.

W. PLUMSTED, Reg. Cl.

In the name of God, Amen. I D—P—, late of Antigua, but now of the Borough of Southwark, in the Province of Pennsylvania, blacksmith, being sick and weak in body, &c. (here set out the Will at length.)

Philadelphia, 23d December 1762. Then personally appeared Francis Sewer and Philip Thomas, two of the witnesses to the foregoing Will, and on oath did declare, they saw and heard D—P—, the Testor therein named, sign, seal, publish and declare the same Will for and as his Last Will and Testament, and that at the doing thereof he was of sound mind, memory, and understanding, to the best of their knowledge.

Coram, W. PLUMSTED, Reg. Cl.

In the West Indies, where a government consists of many Islands, and the Governor is out of the Island (where a Will is to be proved) but within the government, the President of the Island where the Will is to be proved, usually takes the probate or affidavit of the execution of such Will; but if the Testator leaves effects in different Islands in the government, then, to save the expence and trouble of proving the Will before the different Presidents in those Islands in which the effects lie, the shortest way is, to prove the Will before the Governor in Chief, as Ordinary of all the Islands; and then to have the Will registered in those Islands where there are any effects of the Testator, in the same manner as in England, when

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the deceased has *bona notabilia* in different dioceses, the Will must be proved in the Prerogative Court of the Archbishop of Canterbury.

The Governor, as Ordinary, has also the power of granting administration of Intestates effects: but if a government consists of many Islands, and the Governor is out of that Island in which the Intestate's effects lie, but within the government, the President of the Council of that Island where such Intestate's effects lie, usually grants letters of administration within that Island where such effects are, and from whence the Governor is then absent:—but if the Intestate leaves effects within different Islands, in that case, to prevent the trouble of applying for as many administrations as there are Islands in which the Intestate had effects, the best way is, to petition the Governor for administration of all the effects of the Intestate within the government, in the same manner as an application is made to the Prerogative Court in England, where the deceased had *bona notabilia* in different dioceses.

In the West India Islands, the method of obtaining letters of administration is, to petition the Governor for that purpose, who, without issuing any citation, grants the prayer of such Petition, and frequently, without giving any time to those who are better intitled to administration, to oppose the same:—when the petition is granted, the Administrator gives bond, with securities in the Secretary's Office, faithfully to administer the intestate's effects according to law, and to render a just and true account of his administration upon oath, when he shall be thereto lawfully required. —A warrant of appraisment also issues, and the appraisers are to make an inventory and appraisment of the goods and chattels of the Intestate,

and to return the same with all convenient speed into the Secretary's Office; and they are to swear thereto if lawfully required.

In the Colonies on the Continent, no letters of administration were granted before the Civil War, until a citation had been issued, and read in the church by the minister during the time of divine service, on the Sunday before such letters of administration were granted; and the administrator and appraisers were sworn to the effect set forth, under the head of executors, except that the part of the oath, which, in the case of an executor, stated, that he believed the writing produced to be the Last Will of the deceased, in the case of an administrator was altered, by inserting instead thereof, the words following, *viz.* "That the deceased " made no will, as far as the deponent knew and " believed:"—in other respects, the administrator conducted himself in the same manner as an executor was before observed to do.

The hasty method of proceeding in the West Indies, in the granting of letters of administration in the manner before set forth, hath been productive of many inconveniencies.—Some years ago, a person in the Island of Jamaica petitioned the Governor for letters of administration of the estate and effects of a man who had left the Island, and was stated in the petition to be dead:—the prayer of the Petition was granted, and letters of administration obtained;—and some time afterwards, the person supposed to be dead returned to the Island;—on which the then Governor ordered, that for the future no letters of administration should be granted, until previous notice of the application for them was given, by an advertisement in the news paper.

I shall here furnish the Reader with the mode of application for Letters of Administration in some of the West India Islands.

A PETITION for Letters of Administration.

St. CHRISTOPHER'S. To the Honourable J. V. Esq.,
President of his Majesty's
Council of his Island of St.
Christopher, and Commander
in Chief, Chancellor,
Vice-Admiral, and Ordinary
for the time being, in
and over all his Majesty's
Leeward Charibbee Islands
in America ;

The humble Petition of F. C. of the said
Island of St. Christopher, Gentleman,
and Mary his Wife (which said Mary is
the only surviving Child of N. K. late
of the said Island of St. Christopher,
Gentleman, deceased :)

Sheweth,

That the said N. K. departed this life on or
about the twentieth day of May last past, intestate,
and unmarried, possessed of some personal estate
within the government of his Majesty's Leeward
Charibbee Islands in America.

That as your Petitioner Mary is the only surviving
child of the said N. K. your Petitioners
are advised, that they are well intitled to Letters
of Administration of all and singular the goods
and chattels, rights and credits, which were of
the said Intestate at the time of his decease.

Your

M. R. O. U.

Your Petitioners therefore humbly pray your Honour to grant unto them, and the survivor of them, Letters of Administration, of all and singular the goods and chattels, rights and credits, which were of the said N. K. at the time of his death, within the government of his Majesty's Leeward Charibbee Islands in America, upon your Petitioner F. C. giving the usual security into the Secretary's Office of this Island, on behalf of himself and your said Petitioner Mary, faithfully to administer the same, &c.

And your Petitioners shall ever pray, &c.

Dated this 17th day of
Sept. 1766.

F. C.
M. C.

A PETITION for Letters of Administration, with the Will annexed.

ANTIGUA. To his Excellency G. T. Esq; Captain-General and Governor in Chief in and over all his Majesty's Leeward Charibbee Islands in America, and Chancellor, Vice-Admiral and Ordinary of the same ;

The humble Petition of E. B. of the said Island of Antigua, Gentleman, and Margaret his Wife :

Sheweth,

That W. C. late of the said Island of Antigua, Gentleman, deceased, departed this life on the eight day of August, in the year of our Lord one thousand seven hundred and sixty-four, having

first made his Last Will and Testament nuncupative, and thereby given his * real and personal estate to your Petitioner Margaret, who was a sister of the half blood to the said W. C. ; which said Will nuncupative hath been duly proved before your Excellency.

That the said W. C. not having named any person or persons as executor or executors of his said Last Will and Testament, your Petitioners are advised, that it is necessary for them to take out Letters of Administration, with the said Will and Testament annexed.

Your Petitioners therefore humbly pray your your Excellency, that Letters of Administration of all and singular the goods and chattels, rights and credits, which were of the said W. C. at the time of his death, with his Last Will and Testament annexed, may be granted to your Petitioners, and the survivor of them, upon their giving the usual security into the Secretary's Office of this Island, faithfully to administer the same.

And your Petitioners will ever pray, &c.

Dated 26th of April 1765.

Granted
G. T.

E. B.
M, B.

I consent to the above
Petition. T. W.

* The stat. 29 Cha. II. c. 3. for prevention of frauds and perjuries, is not in force in Antigua; but nevertheless it is conceived, that a devise of lands by a nuncupative Will was not good, even before the stat. of Cha. II. for the statutes of 32 Hen. 8. c. 1. and 34 Hen. 8. c. 5. which permitted the devising of lands by Will, direct it to be in writing.

Letters of Administration.

ANTIGUA. By his Excellency G. T. Esq; Captain-General and Governor in Chief in and over all his Majesty's Leeward Charibbee Islands in America, Chancellor, Vice-Admiral, and Ordinary of the same.



WHEREAS E. B. of the said Island of Antigua, Gentleman, and Margaret his wife, by their Petition to me directed, have set forth, That W. C. late of the said Island of Antigua, Gentleman, deceased, departed this life on the eighth day of August, in the year of our Lord one thousand seven hundred and sixty-four, having first made his Last Will and Testament nuncupative, and thereby given his real and personal estate to your Petitioner Margaret, who was a sister of the half blood to the said W. C.; which said Will nuncupative hath been duly proved before me.

That the said W. C. not having named any person or persons as executor or executors of his said Last Will and Testament, the Petitioners were advised, that it was necessary for them to take out Letters of Administration, with the said Will and Testament annexed; the Petitioners therefore humbly prayed me, that Letters of Administration of all and singular the goods and chattels, rights and credits, which were of the said W. C. at the time of his death, with his Last Will and Testament annexed, might be granted to the Petitioners, and the survivor of them, upon their giving the usual security into the Secretary's Office of this Island, faithfully to administer the same.

ADMINISTRATION therefore, of all and singular the goods and chattels, rights and credits, which were of the said W. C. at the time of his death, with his Will annexed, is hereby granted unto the said E. B. and Margaret his wife, they having given bond, with security in the Secretary's Office of this Island, faithfully to administer the same according to law, and to render a just and true account of their administration upon oath, when they shall be thereto lawfully required.

Passed the Office. Given under my hand and
W. A. Seal this 30th day of April
Dep. Sec. 1765. G. T.

Warrant of Appraisement.

ANTIGUA. By his Excellency G. T. Esq; Cap-
tain-General and Governor in
Chief in and over all his Ma-
jesty's Leeward Charibbee Islands
in America, Chancellor, Vice-
Admiral, and Ordinary of the
same.



THESE are in his Majesty's name, to authorise and require you A. B, C. D, E. F, G. H, or any three of you, according to the best of your judgments and consciences, to inventory and appraise the goods and chattels of W. C. late of the said Island of Antigua, Gentleman, deceased, as the same shall be shewn unto you by E. B. and Margaret his wife, Administrator and Administratrix of all and singular the goods and chattels, rights and credits, which were of W. C. deceased, with his Will annexed, and return thereof, to make into the Secretary's Office of this Island, with all convenient speed; which return you are to make,
fo

so that you may swear, if thereto lawfully required, that the same is a just and true Appraisement; and for your so doing this shall be your warrant.

Passed the Office. Given under my Hand and
W. A. Seal this 30th day of April
Dep. Sec. 1765. G. T.

Another form of a PETITION for Letters of Administration.

St. CHRISTOPHER's. To the Honourable J. V. Esq;
President of the Council of
his Majesty's Island of St.
Christopher, and Com-
mander in Chief, Chancel-
lor, Vice-Admiral, and Or-
dinary for the time being,
in and over all his Ma-
jesty's Leeward Charibbee
Islands in America;

The humble Petition of J. L. of the Island
of St. Christopher, Merchant:

Sheweth,

That W. D. Merchant, departed this life at the Island of St. Eustatia, some time in the month of November last, possessed of divers goods and chattels, rights and credits, within his Majesty's Leeward Charibbee Islands in America.

That the said W. D. at the time of his death, left a widow in some part of Great Britain, and some time before his death made his Last Will and Testament in writing, at the Island of St. Croix, and appointed T. L, H. R, and G. H, all of the said Island of St. Croix, Gentlemen, Executors of his said Will.

That

That the said Executors, and every of them, have refused to act under the said Will, and have also refused to prove the same, so that your Petitioner hath not been able to get a copy of the said Will to annex to this his Petition.

That your Petitioner hath taken an assignment of a bond or obligation, entered into by the said W. D. in his life time, for a large sum of money, and by reason thereof is become the largest creditor of the said W. D. within your Honour's government; but as no person hath yet proved the said Will of the said W. D. nor taken out Letters of Administration of his personal estate, your Petitioner is altogether disabled from commencing any action or suit for the recovery of his said demand.

Your Petitioner therefore humbly prays your Honour to grant unto him Letters of Administration of all and singular the goods and chattels, rights and credits, which were of the said W. D. at the time of his death, within the government of his Majesty's Leeward Charibbee Islands in America, upon your Petitioner's giving the usual security faithfully to administer the same, &c.

And your Petitioner shall ever pray, &c.

Dated the 19th day of March 1767.

The inconveniencies arising from the hasty method of granting Letters of Administration in the West Indies, will appear by the two following Petitions, amongst many other instances:

PETITION to revoke *Letters of Administration granted to W. S. and to grant Letters of Administration to J. B.*

ANTIGUA. To his Excellency G. T. Esq; Captain-General and Governor in Chief in and over all his Majesty's Leeward Charibbee Islands in America, and Chancellor, Vice-Admiral, and Ordinary of the same;

The humble Petition of J. B. of the Island of Antigua, Gentleman:

Sheweth,

That A. B. of the said Island of Antigua, Gentleman, your Petitioner's late brother deceased, departed this life in the said Island on the twenty-ninth day of August last past, intestate and unmarried, possessed of a considerable personal estate within your Excellency's government.

That your Petitioner was off from this Island at the time of the death of the said A. B. and that on or about the thirtieth day of August last past, W. S. of the Island of Antigua, Merchant, preferred a Petition to your Excellency, therein setting forth, among other things, the death and intestacy of the said A. B. and that the said deceased was, at the time of his death, indebted to him the said W. S. in the sum of one hundred pounds or thereabouts; and that he had actually been at the expence of burying the said deceased: the said W. S. therefore humbly prayed your Excellency to grant unto him Letters of Administration of all and singular the goods and chattels, rights and credits, which were of the said Intestate at the time of his death,

W. S. giving

the usual security for the faithful administration thereof.

That the said Petitioner of the said W. S. was not opposed by any person whatsoever; and thereupon your Excellency was pleased to grant the same.

That your Petitioner and his Brother L. B. who is a minor, are the next of kin to the said deceased.

That your Petitioner is willing, and doth hereby offer to pay unto the said W. S. all such sum and sums of money as are justly due to him from the estate of the said deceased.

Your Petitioner therefore humbly prays your Excellency to revoke and declare null and void the Letters of Administration of the goods and chattels, rights and credits, of the said deceased, granted to the said W. S. to all intents and purposes in the law whatsoever; and to grant and commit Letters of Administration of the goods and chattels, rights and credits, of the said deceased, which are within your Excellency's government, anew to your Petitioner, upon his giving the usual security faithfully to administer the same; and that the said W. S. may be decreed to account on oath, before your Excellency, for all and singular the goods and chattels, rights and credits of the said deceased, which since his death have come to the hands, possession, or power of the said W. S. and that he may pay over unto your Petitioner such balance as shall appear to be in his hands.

And your Petitioner shall ever pray, &c.

Dated the . . . day of February 1766.

Another

*Another Form of a PETITION to revoke LETTERS of
ADMINISTRATION, &c.*

ANTIGUA. To his Excellency G. T. Esq.
Captain General and Governor
in Chief in and over all his
Majesty's Leeward Charibbee
Islands in America, and Chan-
cellor, Vice Admiral, and Or-
dinary of the same :

The humble Petition of A. M. of the Island
of Antigua, Gentleman ;

Sheweth,

That C. J. late of the Island of Antigua, Sugar Refiner, deceased, departed this life on Tuesday the thirtieth day of October last, in the morning, at the house of G. B. of the Island of Antigua, Esq. situate in the town of St. John, in the said Island, having first made his last Will and Testament in Writing, bearing date the fifteenth day of August, in the year of our Lord 1761, and thereof appointed W. E. Gentleman (since deceased) executor.

That the said G. B. was considerably indebted to the said C. J. at the time of his death, for his salary, as a Sugar Refiner ; nevertheless, the said G. B. concealed the death of the said C. J. for several hours, till he the said G. B. had prepared a Petition from himself to your Excellency for Letters of Administration of the goods and chattels, rights and credits, which were of the said C. J. at the time of his death, to be granted to him the said G. B. although the said C. J. was, at the time ~~of his death~~ indebted to your Petitioner, and

and J. H. of the said Island of Antigua, Esq. in several considerable sums of money.

That the said G. B. by concealing the death of the said C. J. in manner aforesaid, procured Letters of Administration of the goods and chattels, rights and credits, which were of the said C. J. at the time of his death, to be granted to him by your Excellency.

That as the said C. J. duly made and executed such last Will and Testament, as hereinbefore is mentioned; and as the said W. E. the executor named in such last Will and Testament is dead, and your Petitioner and the said J. H. are the largest creditors of the said C. J.

Your Petitioner therefore humbly prays your Excellency, that Letters of Administration of all and singular the goods and chattels, rights and credits, which were of the said C. J. at the time of his death, with his said last Will and Testament annexed, may be granted to your Petitioner, upon his giving the usual security into the Secretary's Office of this Island, faithfully to administer the same; and that the Letters of Administration, which have been granted unto the said G. B. may be revoked.

And your Petitioner will ever pray, &c.

I the above named J. H. (being the largest creditor of the above named C. J.) do hereby humbly consent to the prayer of the above written Petition, if your Excellency shall be pleased to approve of the same.

5. The Governor presides in the Court of Errors, of which he and the Council are Judges,
to

to hear and determine all Appeals, in the nature of Writs of Error, from the superior Courts of Common Law in the Province; and all Writs of Error are tested in his name, when he is on the spot: but in those governments, which consist of several Islands, it is provided by Act of Assembly, that, in the absence of the Captain General or Governor in Chief from the Island, the Lieutenant General, Lieutenant Governor; or if he is also out of the Island, the President, and Council of the Island are Judges of the Court of Errors, and then Writs of Error may be issued by and tested in the name of the President of such Island, and shall be made returnable before, and proceeded in by him and the Council of the said Island; but the number of Councillors necessary to constitute such Court of Errors, is different in some Islands to what it is in others.

These Appeals or Writs of Error, are allowed and regulated by his Majesty's instructions to his Governor: but in the West India Islands, Acts of Assembly have been passed to direct the mode of proceeding in Appeals or Writs of Error, in such particulars only, about which his Majesty's instructions are silent. In those Acts of Assembly, the Court held by the Governor and Council for correcting errors in proceedings in the superior Courts of common law in the Province, is called The Court of Errors; and the process for removing the proceedings, is called A Writ of Error; but the King's instructions call it An Appeal; by such instructions, liberty of Appeal is allowed from the judgment or sentence of the Courts of Common Law to his Excellency the Governor or Commander in Chief, and the Council; for which purpose, a Writ is to issue, returnable before the Governor and C who are to proceed to hear

hear and determine such Appeal, wherein such of the Council, as shall be at that time Judges of the Court, from whence such Appeal shall be so made, shall not be permitted to vote upon such Appeal; but they may nevertheless be present at the hearing thereof, to give the reasons of the judgment given by them in the causes, wherein such Appeals shall be made. Liberty of Appeal is also allowed from the judgment or sentence of the Governor or Commander in Chief and Council, and from the order or decree of the Court of Chancery to his Majesty in his Privy Council; but such liberty of Appeal is under the following restrictions:

1. No Appeal shall be allowed to the Governor in Council in any civil cause, unless the debt or damages, or the sum or value appealed for, do exceed the sum of 300*l.* sterling; except the matter in question relates to the taking or demanding any duty payable to the King, or to any fee of office, or annual rent, or other such like matter or thing, where the rights in future may be bound; in all which cases, an Appeal is admitted to the King in his Privy Council, though the immediate sum or value appealed for be of less value.

2. That in all cases of fines imposed for misdemeanors, no Appeals are permitted to the King in his Privy Council, except the fines, so imposed, amount to or exceed the value 200*l.* sterling.

3. That every such Appeal to the Governor and Council be made within fourteen days after judgment or sentence is pronounced in the Court below; and that the Appellant or Plaintiff in Error do give good security that he will effectually prosecute his Appeal or Writ of Error, and answer the condemnation money; and also pay such costs

and damages as shall be awarded, in case the judgment or sentence of the Court below shall be affirmed.

4. That no Appeal be allowed from the judgment or sentence of the Governor and Council, or from the decree of the Court of Chancery to the King in his Privy Council; unless the debt, damages, or the sum or value so appealed for, do exceed the sum of 500*l.* sterling, except where the matter in question relates to the taking or demanding any duty payable to the King, or to any fee of office, or an annual rent, &c. as above mentioned.

5. That such Appeal to his Majesty in his Privy Council be made within fourteen days after judgment or sentence is pronounced by the Governor in Council, or after a decree is pronounced by the Governor in the Court of Chancery; and that the Appellant or Plaintiff in Error do give good security, that he will effectually prosecute his Appeal or Writ of Error, and answer the condemnation money; and also pay such costs and damages as shall be awarded by his Majesty, in case the sentence or judgment of the Governor and Council, or the decree of the Court of Chancery be affirmed.

In the West India Islands, provision is usually made by Act of Assembly, for directing the mode of ascertaining the value of the matter in dispute, and also in what time the Writ of Error shall be returnable, when a transcript of the record shall be made out, and when errors shall be assigned, and such other incidental matters in the course of the proceeding, about which his Majesty's instructions are silent; but on the Continent, these things are usually provided for by Rule of Court, which being under the power of the Governor
Q and

and Council, are amended from time to time : whereas in the West India Islands, sometimes ill judged Acts of Assembly are made for regulating the proceedings of the Courts of Justice, which take away from the Judges the power of amending the practice of the Courts ; and it is not always an easy matter to prevail on the Assembly to amend one of their inconvenient laws.

On an Appeal from the judgment of the Governor and Council, or from the decree of the Court of Chancery to the King in Council, the proceedings must be copied fair, on large paper (for parchment is not used in the Colonies) by the Officer, who has the custody of the records ; who, in some Colonies, is the Secretary of the Island or Province ; in others, the Clerk of the Crown and Pleas ; and, in others, the Prothonotary. When the proceedings are thus copied fair, the Officer, who has the custody of them, must make an affidavit that they are true copies, and have been compared with the original records. The proceedings and affidavit are then annexed together, the Governor or Commander in Chief puts the Great Seal to them, and they are then transmitted to Great Britain.

On an Appeal to the King in Council, from the Plantations, the proceedings must be transmitted, and the party appealing must proceed within a year after the Appeal allowed in the Plantations. 2 Lord Raymond 1447.—But a cause cannot be transmitted for difficulty, but must be determined one way or other. Id. 1448.

I shall here give the form of an Appeal, in the nature of a Writ of Error in a Colony, where the liberty of Appeal was entirely regulated by the King's instructions ; and as this was the first instance of an Appeal in that Colony, there was no

Act of Assembly, nor Rule of Court respecting Appeals, great care was therefore taken to conduct the proceedings in every respect, as near as possible to the King's instructions.

An APPEAL (in the nature of a WRIT of ERROR) to the Governor and Council, from a Judgment given in the General Court.

GEORGIA.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, and so forth. To our trusty and well beloved A. B. Barrister at Law, our Chief Justice of our Province of Georgia, greeting: Whereas by our fifty-second instruction, to our Governor and Commander in Chief of our said Province or Colony of Georgia, we have thought fit to authorise him, or the Commander in Chief of our said Province for the time being, to permit and allow Appeals from any of the Courts of Common Law, in our said Colony; and to issue a Writ for that purpose, returnable before him, and the Council of our said Colony: provided, that in all such Appeals, the value exceeds the sum of three hundred pounds sterling. And that security be first duly given by the Appellant, to answer such charges as shall be awarded, in case the first sentence be affirmed, as in the said recited instruction is more fully contained. And whereas G. W. of our said Province of Georgia, Esquire, hath, by his Petition, alleged, that in the record and process, and also in the giving of judgment of the Plaint, which was in our General Court of our said Province of Georgia, before you the said A. B. our Chief Justice of our said Province of Georgia, and your

Fellows, our Justices of our said General Court, by our Writ, between R. K. (on the demise of G. D.) and the aforesaid G. W. Esq; of a certain trespass and ejectment of farm, manifest error hath intervened, to the great damage of him the said G. W. as we from his complaint are informed. And whereas by the affidavit of the said G. W. made before you, our said Chief Justice, it is alleged, that the premises, mentioned in the declaration filed in the action aforesaid, with the improvements, are worth five hundred pounds lawful money of our said Province. We therefore being willing, that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties in this behalf, do command you, that, if judgment thereof be given, then (on the said G. W.'s giving before you such security, as by our said in part recited instruction is directed) the record and process of the Plaint aforesaid, with all things concerning them; to his Excellency our trusty and well beloved Sir J. W. Baronet, our Captain General and Governor in Chief in and over our said Province of Georgia, and Chancellor, Vice Admiral, and Ordinary of the same; and the Honourable Council of our said Province, under your seal (to wit) on the day of next ensuing, distinctly and openly you send, and this writ; that the record and process aforesaid being inspected, our said Governor, with the assent of our said Council, may further cause to be done therein for correcting that error, what of right, and according to the law and custom of England, in force in our said Province of Georgia, ought to be done. Witness our said Governor in Chief of our said Province, in

Council

Council, at Savannah, the day of February,
in the fifteenth year of our reign.

By his Excellency's Command,

A. W. Clerk of the Council.

This Writ was signed by the Governor, and
under the Great Seal of the Province.

I shall also give the reader the form of a Writ
of Error in the Island of Nevis, which is per-
haps the first instance in which a person, who
was the chief or presiding Judge in one Court,
tested and signed a writ, which commanded him-
self, as Chief Justice of another Court, to certify
the proceedings in a cause determined before him.
For Joseph Herbert, who was President of the
Council in the Island of Nevis, was also Chief
Justice of the Courts of King's Bench and Com-
mon Pleas there.



GEORGE the Third, by the grace
of God, of Great Britain, France, and
Ireland King, Defender of the Faith,
and so forth. To our trusty and well-
beloved Joseph Herbert, Esq; Chief
Justice of our Courts of King's Bench and Com-
mon Pleas, in our Island of Nevis, greeting:
Whereas in and by a certain statute or ordinance,
made and passed by our Captain-General and
Governor in Chief, in each, and over all our

* When the Governor is present, the Writ of Error, or
Appeal, ought to be under the Great Seal of the Govern-
ment; but when (as was the case here) the Governor is in
another Island of the Government, then, as he has the Great
Seal with him, the Writ of Error must, of necessity, be under
the Seal at Arms of the Lieutenant-Governor or President that
issues it.

Leeward Charibbee Islands in America; and also our Council, and the Assembly of our said Island of Nevis, at Charlestown in the same island, in the year of our Lord one thousand seven hundred and thirty-two, it was among other things enacted and ordained, That the Captain-General, or Governor in Chief of our Leeward Charibbee Islands, with four or more of the Council of our said Island of Nevis; and in the absence of the Captain-General or Governor in Chief, the Lieutenant-Governor or President of the Council, with the like number of the Council of the said Island of Nevis, should and might hear, try, and determine all errors to be brought of any judgments to be given in the said Courts of King's Bench and Common Pleas, or which were given by the Courts held by any former Act, for any sum, matter, Cause, or Thing; and that in the absence of the Captain-General, or Governor in Chief, the Lieutenant-Governor, or in his absence, the President of the Council might sign such Writ of Error, or other process thereupon, as in the said statute or ordinance is more fully contained. And because in the record and proceedings, as also in the rendition of the judgment of a plea of trespass on the case which was in our Court of Common Pleas, held in and for our said Island of Nevis, before the Honourable Joseph Herbert, Esq; and others his brethren, Justices of our Court of Common Pleas aforesaid, between J. S. Esq; Plaintiff, and T. B. Esq; Defendant, there is, as it is said, a manifest error, to the great damage of the said Thomas, as by his complaint we have received information. We therefore being willing, that the error aforesaid (if any shall be) should, according to the form of the statute or ordinance aforesaid, be corrected, and full and speedy justice

tee done to the parties aforesaid, in this behalf command you, That if judgment thereupon be given, then the records and proceedings aforesaid, with all things concerning the same, before the said Captain-General, or Governor in Chief, with four or more of our said Council, or in the absence of the said Captain-General, or Governor in Chief, before the said Lieutenant-General or President of the said Council, with the like number of the said Council, into our Court of Error aforesaid, at Charlestown aforesaid, on Tuesday, to wit, the second day of October next ensuing, you cause to be brought, that the said Captain-General, or Governor in Chief, with four or more of our said Council, and in the absence of the said Captain-General, or Governor in Chief, the said Lieutenant-Governor or President of the said Council, with the like number of our said Council, the records and proceedings aforesaid having seen and examined, may further cause to be done therein, what of right, and according to the form of the statute and ordinance aforesaid shall be to be done. Witness the Honourable Joseph Herbert, Esq; President of our said Council at Charlestown aforesaid, this third day of July, in the year of our Lord one thousand seven hundred and sixty-four, and in the fourth year of our reign.

JOSEPH HERBERT.

For the result of a Writ of Error in a prosecution for a Misdemeanor, see Title, Courts of Criminal Jurisdiction, hereafter.

6. The Governor is usually named first in the standing Commission issued under the * 11 & 12 Wil,

* On a reference to the Attorney and Solicitor-General of England, in the case of a man who was convicted in the Province

Wil. III. c. 7. for the more effectual suppression of Piracy; and if he chuses to sit, he is then President of the Court: if he does not sit, the senior Member of the Council then present presides.

Mr. Dudley, Governor of the Massachusetts Bay in New England, sat as President at the trial of Quelch and others at Boston, who were tried under the above-mentioned Act, 8 vol. State Trials, fol. 205.

This Act of the 11 & 12 Wil. III. is made perpetual by the 6 Geo. I. c. 19. s. 3. and is enforced by the 8 Geo. I. c. 24. which last mentioned act is made perpetual by 2 Geo. II. c. 28. s. 7. The proceedings under the statute of 11 & 12 Wil. III. are by the 4th section of that Act directed to be, according to the Civil Law, and the methods and Rules of the Admiralty. This Act became necessary, on account of such British settlements in different parts, as had no regular Courts of Justice established, and were not populous enough to furnish juries; such as the forts on the coast of Guinea, and elsewhere; but by the 4 Geo. I. c. 11. intitled, "An Act for the further preventing Robbery, &c." and for declaring the law upon some points relating to pirates. In the 7th section, it is declared, That all persons who shall commit any offence or offences, for which they ought to be adjudged pirates, felons, or robbers by the said Act of 11 & 2 Wil. III. c. 7. may be tried and judged for every such offence, in such manner as is directed by the 28 Hen. VIII. c. 15. and shall be excluded from Clergy;

vince of South Carolina, in a Court held by virtue of a Commission issued under this Act, they reported as their opinion, That murder on the high seas was not triable under the 11 & 12 of Wil. III. c. 7. which speaks of piracies, felonies, and robberies, but does not mention murder.

and

and by the 9th section of 4 Geo. I. c. 11. that Act is extended to America; so that at present a pirate in the British Colonies in America may be tried either under the 11 & 12 Wil. III. c. 7. according to the course of the Civil Law, or under the 28 Hen. VIII. c. 15. according the course of the Common Law; but the 28 Hen. VIII. c. 15. was not extended to the British settlements in Asia and Africa; because in many of them there were no regular Courts of Justice established, nor juries to be had.

I was present at two trials in America under the 11 & 12 Wil. III. c. 7. One of those trials was in a West India island, and the other on the Continent. In the first case, the prisoners escaped, because they were tried according to the course of the Civil Law, and there was but one witness against them; and the Solicitor-General was not aware of the 4 Geo. I. c. 11. which empowered him to try them in the manner directed by the 28 Hen. VIII. c. 15.

7. The Governor is also Vice-Admiral within his province; and in time of war he issues his warrant to the Judge of the Court of Vice-Admiralty to grant commissions to privateers: but the Governor does not sit in the Court of Vice-Admiralty himself, there being usually a Judge of the Court of Vice-Admiralty appointed from England. See more on this head under the title, Court of Vice-Admiralty hereafter.

By 11 & 12 Wil. III. c. 12. all crimes and offences committed by any Governor, Lieutenant-Governor, Deputy-Governor, or Commander in Chief of any plantation or colony within his Majesty's Dominions beyond the seas, contrary to the laws of this realm, or in force within their respective governments, shall be heard and determined

mined in the King's Bench in England, or before such Commissioners, and in such county of this realm, as shall be assigned by his Majesty's commission, and by good and lawful men of the same county, and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed here in England.

C H A P. V.

Of the Lieutenant-General and Lieutenant-Governor.

LIEUTENANT-GENERAL.

IN Governments consisting of several islands, there is a Lieutenant-General, who is next in succession to the Captain-General and Governor in Chief; and in case of his death or absence, the Lieutenant-General takes the command: he is usually also Lieutenant-Governor of one of the Islands in the Government; but Mr. Lofack, the present Lieutenant-General of the Leeward Charibbee Islands, is not Lieutenant-Governor of either of them, as they were all filled before his appointment. A Governor, on his departure from the colony which he commands, delivers his commission and instructions to the Lieutenant-General, or other person next in command, who is then on the spot.

LIEUTENANT-GOVERNOR.

By virtue of his Majesty's commission and instructions to the Captain-General and Governor in Chief, the Lieutenant-Governor (in case of the death

death or absence of the Governor out of the province) is invested with all the powers and authorities granted by such commission; to be executed and enjoyed by the Lieutenant-Governor during his Majesty's pleasure, or until the arrival of the Governor in Chief in the province.

Form of a Commission of a Lieutenant-Governor.

GEORGE R.



GEORGE the Third, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c. To our trusty and well-beloved A. B. Esq; greeting: We reposing especial trust and confidence in your loyalty, courage, and prudence, do, by these presents, constitute and appoint you to be our Lieutenant-Governor of our Province of C—in America; to have, hold, exercise, and enjoy the said place and office during our pleasure, with all rights, privileges, profits, perquisites, and advantages to the same belonging or appertaining; and further, in case of the death or absence of our Captain-General and Governor in Chief in and over our said province of C—, now and for the time being: we do hereby authorize and empower you to execute and perform all and singular the powers and authorities contained in our commission to our said Captain-General and Governor in Chief, according to such instructions as are already sent, or hereafter shall from time to time be sent unto him, or as you shall receive from us, and from our said Captain-General and Governor in Chief of our said province of C—, now and for the time being; and all and singular our officers, Ministers,

ministers, and loving subjects of our said province, and all others whom it may concern, are hereby commanded to take due notice hereof, and to give a ready obedience accordingly. Given at our Court at St. James's, the first day of January, one thousand seven hundred and eighty-three, in the twenty-third year of our reign.

By his Majesty's Command,

D. E.

A. B. Esq; Lieut. Governor of C—.

A Lieutenant-Governor who takes the command of a Colony on the death or absence of the Governor in Chief, must take the same oaths, and subscribe the test in the same manner that a Governor in Chief does on his entrance on his Government, viz. He must take the oaths to Government, and make and subscribe the declaration against transubstantiation: he must then take the oath usually taken by the Governors in the Plantations, for the due execution of the office of Lieutenant-Governor and Commander in Chief for the time being of that Province, the command of which has devolved on him; and for the due and impartial administration of justice there; and, in the last place, he must take the oath (required to be taken by Governors of the Plantations) to do his utmost, that the several laws relating to Trade and the Plantations be duly observed; which oaths and declaration, the Council of the Province, or any three of the Members thereof, are empowered to administer.

C. H. A. P.

C H A P. VI.

Of the COUNCIL.

THERE are in every Colony twelve Ordinary Members of the Council, who are appointed either by being named in the Governor's Instructions, or else by Mandamus.

In the Colonies on the Continent, before the Civil War, there were two extraordinary Members of the Council, viz. his Majesty's Superintendant for Indian affairs, and the Surveyor-General of the Customs: but notwithstanding the Governor in Chief, and Lieutenant-Governor, should be both dead, or absent from the Province, yet neither of those two extraordinary Members of the Council could administer government, though next in seniority, but the command devolved on the Ordinary Member of the Council next in seniority to such Superintendant or Surveyor-General. When a Governor in Chief is appointed to a Colony, the names of all such Members of the Council as are continued, and the names of all such as are newly appointed, are inserted in the Governor's Instructions; and under this authority they are sworn in on the Governor's arrival in the Province; but as fast as vacancies happen during the Governor's continuance in office, such vacancies are filled up by the Crown by Mandamus: of which the following is a copy.

G. R.

TRUSTY and well-beloved, we greet you well. We being well satisfied with the loyalty, integrity, and ability of our trusty and well-beloved A. B. Esq;

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Esq; have thought fit hereby to signify to you, our will and pleasure, That forthwith, upon receipt of these presents, you swear and admit him the said A. B. to be our of Council in our Province of C—; and for so doing, this shall be your warrant! and so we bid you farewell. Given at our Court at St. James's, the fifth day of March, 1771, in the eleventh year of our reign.

By his Majesty's Command,
HILLSBOROUGH.


A. B. Esq. to be of the Council of C—.

This is folded up like a letter; and on the margin of the outside is thus written,

“ A. B. Esq. to be
“ of the Council of
“ C——.”

And is directed thus :

“ To our trusty and well-beloved D. E. Esq;
“ our Captain-General and Governor in Chief
“ in and over our Province of C— in America ;
“ and in his absence to the President of our Council, or Commander in Chief of our said Province for the time being.”

 The Signet was on the outside, after the Mandamus was folded up.

Every Councillor must take the oaths of allegiance, supremacy, and abjuration, and subscribe the test ; after which he must take the following oath of office :

You do swear, that you faith and true allegiance bear unto his Most Sacred Majesty King George
the

the Third, and to his heirs and successors, and shall be true and faithful to his Excellency J. R. Esq; as he is commissioned Captain-General and Governor in Chief in and over this his Majesty's Province; and that you will, in the place and office of his Majesty's Councillor of this Province, well and faithfully serve his said Majesty, and promote the good of his Majesty's affairs with your best advice and counsel;—you shall, with your best ability, defend this Province from all foreign invasions and intestine insurrections;—you shall not countenance or conceal any plot or seditious conspiracy, or any treasonable or seditious speeches against his said Majesty, his heirs or successors, or his said Excellency, but you shall give speedy notice hereof unto his said Excellency, or to some Member of the Council:—the secret debates of the Council you shall not reveal directly nor indirectly: all which you shall, to the utmost of your ability, perform.

So help you GOD.

The Council in a Colony act in the following different capacities:

1. They are to give advice to the Governor or Commander in Chief for the time being, when thereunto required; and they stand in the same relation to the Governor in a Colony, that the Privy Council does to the King in Great Britain; in some cases, the Governor can act without their advice and concurrence; and there are other cases, in which the Governor is required by his instructions not to act, without the advice and concurrence of the Council, or the major part of them. There are also instances, in which a Commander in Chief, for the time being, cannot do so without the advice and concurrence of the Council.

Council; although a Governor in Chief could, in such cases, proceed without their advice. This depends on his Majesty's instructions, which every Governor and Commander in Chief should carefully attend to. When I was in the West Indies, a Governor took the advantage of this power vested in him, to suspend, a Member of the Council, for marrying his daughter without his consent. But this Act was disapproved of at home, and the suspended Member was restored by an order from home, as I afterwards heard.

2. The Council is one branch of the legislature, and in the Colonies on the Continent before the Civil War, when the Members of the Council sat in their legislative capacity, they were then called, The Upper House of Assembly in their minutes; but in the Acts of Assembly, they were called, The Council, in the same manner as in the West India Colonies. But for more under this head, see title General Assembly, hereafter.

3. The Council sit as Judges in the Court of Errors or Court of Appeal, as herein before is mentioned.

4. In some Colonies, the Council sit as Judges with the Governor in the Court of Chancery, as I have herein before observed.

5. The Council are named, in every Commission of the Peace, as Justices of the Peace throughout the whole Colony; whereas, in the Provinces on the Continent, which are divided into particular districts, all the Justices of the Peace (except the Council, the Judges of the Superior Courts, and a few more) were, before the Civil War, appointed for particular districts only.

Every

Every Member of the Council is appointed during his Majesty's pleasure only; and, with the consent of the Council, may be suspended by the Governor or Commander in Chief for misbehaviour.

CHAP. VII.

Of the GENERAL ASSEMBLY.

THE General Assembly consists of the Captain General and Governor in Chief (or in case of his death or absence, of the Commander in Chief for the time being), the twelve Members of the Council, and the House of Representatives chosen by the people, which Representatives are more or fewer, according to the extent of the Colony.

In the Provinces on the Continent, the number of Representatives increased, as the boundaries were extended by cessions of land by the Indians. The Representatives are styled differently in different Colonies. In all the West India Islands, they are called The Assembly; in Virginia, before the Civil War, they were styled, The House of Burgesses; in the Massachusetts Bay, The House of Representatives; and in most of the other Colonies on the Continent, The Commons House of Assembly.

The Governor, Council, and Assembly, in every Colony, is a subordinate Legislature, subject to the controul of the King and Parliament, who are supreme over all the British Empire. The Governor (or in case of his death or absence the Commander in Chief for the time being the King's Representative, is the first of this subordinate Legislature, and hath

power of convening, adjourning, proroguing, and dissolving the General Assembly. Every Governor is forbid to suffer the Assembly to adjourn itself. In the Provinces on the Continent, where many of the Members lived at a distance from the town, it was usual for the Commons House of Assembly not to do business on a Saturday, but to go home on the Friday evening, and re-return to town on the Monday morning following. However, the Governor could not, consistent with his duty, permit the Commons House of Assembly to enter on their Journals an adjournment from Friday till Monday; but the Clerk of the Commons House of Assembly made an entry on the Journals every Saturday, in the manner following:

Saturday, December 16th, 1769.

“ The House met according to adjournment,
 “ and then adjourned ’till Monday morning, ten
 “ of the clock.”

And whenever the two Houses of Assembly were adjourned for the Christmas Holidays, or on any other occasion, it was always done by the Governor,* in the manner following:

“ Mr. Speaker, and Gentlemen of the As-
 “ sembly, I do hereby adjourn the Commons
 “ House of Assembly, until Monday the eighth
 “ day of January next, then to meet for the dis-
 “ patch of business; and it is accordingly ad-
 “ journed to the 8th day of January next. Given
 “ under my hand, at this 20th day of
 “ December 1769.

A. B.

“ To the Honourable the Speaker
 “ and Members of the Com-
 “ mons House of Assembly.”

The

The late disposition, the Colonies have shewn, makes it appear how necessary it was that the power of adjournment should be lodged in the Governor only, and not entrusted with the Houses of Assembly.

The Council, or (as it is called) Upper House of Assembly, is an humble imitation of the House of Lords.

The Assembly, or (as it is called in most of the Colonies on the Continent) Commons House of Assembly, represents the people at large, and are chosen by them. The qualifications of the Electors, and the elected, are different in almost every Colony, and so is the continuance of the House of Representatives; for in some Colonies, they continued during the Governor's pleasure; in other Colonies, they were elected annually; and several of the Governors formerly assented to Acts of Assembly, extending the democratical part of the Constitution of some Colonies beyond that of Great Britain, particularly in the Islands of St. Christopher and Barbadoes, and in the Province of South Carolina, where, by Act of Assembly, the election of Representatives was annual.

Some Governors in former reigns did also assent to Acts, giving the Houses of Representatives a power of appointing to executive offices, by enabling them to constitute the public Treasurer, &c. in derogation of the undoubted prerogatives of the Crown, as the Reader may observe, by consulting the Acts of Assembly of the different Colonies.

The proceedings of the Houses of Assembly in the Colonies are conducted, and their Journals kept, in a manner much conformed to those of the two Houses of Parliament.

It will therefore be needless to enumerate particulars, as the Journals of the Houses of Parlia-

ment are the precedents by which the Legislatures in the Colonies conduct themselves. I shall only take notice of some things which are peculiar to the Colonies; and in the first place, it will be necessary to observe, that the enacting part of the Acts of Assembly differs in different Colonies, as will appear by the following extracts:

The enacting part of an Act of Assembly in the Island of Jamaica.

“ WHEREAS some inconveniencies have already
 “ happened, through the negligence and misbehaviour of some officers in the respective offices
 “ of record of this Island: for the prevention of
 “ such inconveniencies for the future, and the
 “ raising, embezzling, or destroying of any the
 “ records or enrollments within this Island, we
 “ your Majesty’s most dutiful and loyal subjects,
 “ the Council and Assembly of this your Majesty’s Island, do beseech your Majesty that it
 “ may be enacted; be it therefore enacted by the
 “ Governor, Council, and Assembly of this your
 “ Majesty’s Island of Jamaica, and it is hereby
 “ enacted and ordained by the authority of the
 “ same, That if any person whatsoever shall make,
 “ or cause to be made, any rasure, &c.”

The Enacting Part of an Act of Assembly in the Island of Barbadoes.

“ WHEREAS the several fortifications of this
 “ Island are at this time very much gone to decay,
 “ and it being absolutely necessary for the honour
 “ of the government, as well as the safety of this
 “ place, that the said fortifications should be well
 “ and sufficiently repaired, and at all times for
 “ the

" the future kept and preserved in a good posture
 " of defence; be it enacted by his Excellency
 " Robert Lowther, Esq; Captain General and
 " Governor in Chief of this and other the Cha-
 " ribbee Islands, lying and being to windward of
 " Guadaloupe, the Honourable the Members of
 " his Majesty's Council, and the General As-
 " sembly of this Island, and by the authority of
 " the same, That every person in this Island, be-
 " ing seised or possessed of ten or more acres,
 " &c."

*The Enacting Part of an Act of Assembly, in the
 Island of St. Christopher.*

" WHEREAS the navigation of this Island la-
 " bours under great difficulties and disappoint-
 " ments by reason of the disorderly behaviour of
 " the sailors and seamen, occasioned chiefly by the
 " entertainment and credit they meet with in the
 " Punch-houses of this Island; and also by sailors
 " leaving the vessels they have been entered in,
 " before they have performed the voyage they
 " have been entered for, to which they are en-
 " couraged by their being shipped at higher
 " wages by the masters of other vessels.

" And whereas the laws already made, have
 " proved ineffectual for the prevention of the
 " mischiefs aforesaid, we your Majesty's most du-
 " tiful and loyal subjects, the Governor in Chief
 " in and over all your Majesty's Leeward Cha-
 " ribbee Islands in America, and the Council and
 " Assembly of your Majesty's Island of St. Chri-
 " stopher, humbly pray your most sacred Ma-
 " jesty, that it may be enacted:

" 2. And be it, and it is hereby enacted by the
 " King's most excellent Majesty, by and with the

“ advice and consent of the said Governor in
 “ Chief, and the Council and Assembly of the
 “ said Island of St. Christopher, That all sailors
 “ and seamen, &c.”

The enacting part of the Acts of Assembly in the other parts of the Leeward Charibbee Islands, is similar to that in the Island of St. Christopher above set forth. Formerly there was but one General Assembly for all the Leeward Charibbee Islands; but now there is a separate legislature for each of the Islands of Saint Christopher, Nevis, Montserrat and Antigua.

*The Enacting Part of an Act of Assembly, of the
 Bermuda or Summer Islands.*

“ WHEREAS there hath been no current value as
 “ yet set upon gold, which many times causeth
 “ disputes and differences in passing the same;
 “ and for prevention whereof for the future, we
 “ therefore your Majesty’s most dutiful and loyal
 “ subjects, the Assembly of these your Majesty’s
 “ Bermuda or Summer Islands in America, do
 “ most humbly beseech your Majesty, that it may
 “ be enacted; and be it enacted by your Majesty’s
 “ Lieutenant Governor, Council, and Assembly,
 “ and it is hereby enacted and ordained by the
 “ authority of the same, That from and after
 “ publication hereof, all pistoles of gold, &c.”

*The Enacting Part of an Act of Assembly in Virginia
 before the Civil War.*

“ WHEREAS it hath been found by experience,
 “ that one Act of Assembly made in the seventh
 “ year of the reign of our late sovereign Lord
 “ King George the First, intituled, An Act for
 “ the

“ the supply of certain defects found in an Act,
 “ prescribing the method for appointing Sheriffs,
 “ is very useful and necessary; and it is since de-
 “ termined and expired.

2. “ Be it therefore enacted, by the Lieutenant
 “ Governor, Council, and Burgesſes, of this pre-
 “ sent General Assembly; and it is hereby enacted
 “ by the authority of the same, That the said Act,
 “ made in the said seventh year of the reign of
 “ our said late Lord the King, and every the
 “ clauses, articles, and sentences therein con-
 “ tained, shall and be, and are hereby revived
 “ and made perpetual.”

*The Enacting part of an Act of Assembly of the Pro-
 vince of the Massachusetts Bay before the Civil
 War.*

“ WHEREAS the stated allowance by law for
 “ grand Jurors, of two shillings *per diem*, during
 “ their attendance at Court, is thought too little,
 “ considering the great price of provisions and
 “ other necessaries; be it enacted by his Excel-
 “ lency the Governor, Council, and Representa-
 “ tives, in General Court assembled, and by the
 “ authority of the same, That the allowance of a
 “ Grand Juror, during his attendance on the
 “ Court, and also for his necessary travel to and
 “ from the same for the future, be three shillings
 “ *per diem*.

“ And whereas a great part of the business of
 “ the Superior Court, is often taken up in hear-
 “ ing and granting petitions for the sale of land,
 “ and no fee yet stated by law for the same; be
 “ it further enacted by the authority aforesaid,
 “ That the fee or allowance to the Judges of the
 “ said Court, on such petitions, be two shillings
 “ a-piece

a-piece to each Judge present at the hearing of such petition, and no more."

The enacting Part of an Act of Assembly of the Province of New York, before the Civil War.

" WHEREAS the Act, intituled, An Act for
 " licensing Hawkers and Pedlars within this Pro-
 " vince, is expired by its own limitation, and
 " the same having by experience been found to
 " be very beneficial; be it therefore enacted by
 " the Governor, Council, and General Assembly,
 " and by the authority of the same, That the
 " said Act, and every article, clause, and thing
 " therein contained, be, and is hereby revived
 " and continued to remain in force for and during
 " the term of four years; excepting and reserving
 " from the penalties of the Act aforesaid, Jerem-
 " miah Smith of Queen's County, who is hereby
 " licensed to trade as a petty Chapman within
 " Queen's County only; any thing in the before
 " recited Act to the contrary notwithstanding."

The enacting part of an Act of Assembly in the Province of New Jersey, is the same as that in New York, *mutatis mutandis*.

The enacting Part of an Act of Assembly in the Province of Georgia before the Civil War.

" WHEREAS the dangerous practice of hunt-
 " ing by fire-light in the night-time, under the
 " pretence of killing deer, is now become very
 " common, by means whereof cattle are frequent-
 " ly destroyed, to the manifest injury of the
 " owners of the same; for remedy thereof, and
 " in order to prevent as much as may be the like
 " mischiefs in future, we humbly pray his most
 " Sacred

“ Sacred Majesty that it may be enacted, and
 “ be it enacted by his Excellency Sir James
 “ Wright, Baronet, Captain-General and Go-
 “ vernor in Chief in and over his Majesty’s Pro-
 “ vince of Georgia, by and with the advice and
 “ consent of the Honourable Council, and the
 “ Commons House of Assembly of the said Pro-
 “ vince, in General Assembly met, and by the
 “ authority of the same, That from and after the
 “ first day of June next ensuing, &c.”

I have already observed, that after the re-esta-
 blishment of the King’s Civil Government in
 Georgia, the Council was styled Upper House,
 in most of the laws that passed.

Many of the Acts of Assembly in the Colonies
 are drawn in a loose inaccurate manner, as will
 appear by the following specimens :

In an Act of Assembly in the Island of Antigua
 is the following recital :

“ WHEREAS *the want* of cross Streets and
 “ Lanes, to pass from Street to Street in the se-
 “ veral Towns of this Island, and proper allot-
 “ ments of Land for Market-places have been
 “ hitherto *much wanted*, &c.”

In some Acts of Assembly of the Province of
 ——— are the following recitals :

“ WHEREAS the Light-house on ———
 “ Island is in a *ruinous condition*, and if not speedi-
 “ ly repaired must soon *decay*, &c.”

Is not a Building in a *ruinous condition* already
decayed ?

“ WHERE-

“ WHEREAS Disputes and Differences frequently arise and happen between Merchants, &c. which cannot be determined by *Legal Processes, &c.*”

If such Disputes cannot be determined by *Legal Processes*, How then are they to be determined?

It may appear trifling to the Reader to take notice of such absurdities; but it will be a foundation for the following useful hints to some of the Colony Legislatures, provided they will take notice of them.

In the Colonies, the Planters and Mechanics that get into the House of Representatives, frequently think themselves capable of adding a clause to, or altering the wording of a bill brought into the House of Assembly, without reflecting, that even statutes drawn by the ablest Judges in Westminster Hall, have occasioned doubts and law-suits.—I have known Bills passed in the Commons House of Assembly, and sent to the Upper House for concurrence, which have been so defective, both in language and sentiment, that they were incapable of any amendment otherwise than by drawing up a fresh form of a Bill, calculated to answer the same purposes with the Bill sent up. In the Upper House of Assembly, pains were accordingly taken to draw up a Bill, in the language of some Act in the Statute Book of Great Britain, in a case of a similar nature; and such draught has been sent down by way of an amendment with the Bill that passed the Commons House of Assembly. The Gentlemen below were not able to deny the absurdity of their own Bill, and have adopted the draught sent down in lieu of it; but they have disgraced it so much with ill-judged alterations, which they called amendments, that
those

those who were concerned in drawing it have been ashamed to own it.

When an Act of Assembly has received the Governor's assent, it must be sent home to Great Britain within three months, for his Majesty's approbation or disallowance. If it receives his Majesty's approbation, the same is signified to the Governor by an order of the King in Council, which was formerly done in the following manner :

" At the Court at Kensington the 31st of December 1696.

P R E S E N T

The KING's Most Excellent Majesty in Council.

" Thomas, Lord Archbishop	" Earl of Monmouth
" of Canterbury	" Lord Viscount Dursley
" Lord Keeper	" Lord Cornwallis
" Lord Steward	" Lord Coningsby
" Lord Chamberlain	" Mr. Secretary Trumbull
" Earl of Bridgewater	" Mr. Chancellor of the
" Earl of Stamford	" Exchequer
" Earl of Portland	" Lord Chief Justice Holt.

" WHEREAS his Majesty has been pleased,
 " by his Royal Commission, bearing date the six
 " and twentieth day of October one thousand six
 " hundred and eighty-nine, in the first year of his
 " reign, to authorise the Governor, Councils, and
 " Assemblies of their Majesty's Leeward Charib-
 " bee Islands in America, jointly and severally,
 " to make, constitute and ordain laws, statutes,
 " and ordinances, for the public peace, welfare,
 " and good government of the said Islands ;
 " which said laws, statutes, and ordinances, are
 " to be, as near as conveniently may be, agree-
 " able to the laws and statutes of Great Britain,
 " and to be transmitted

“ Royal approbation or disallowance of them;
 “ and the Council of Trade having perused and
 “ and considered certain laws, passed in the Ge-
 “ neral Assembly of his Majesty's Island of Mont-
 “ ferrat, in the words following :

Here the several Acts of Assembly approved of
 by his Majesty, were recited.

“ Which said laws having been presented to
 “ his Majesty, at this Board, his Majesty was gra-
 “ ciously pleased, with the advice of his Privy
 “ Council, to declare his approbation of the same,
 “ and, pursuant to his Royal pleasure thereupon,
 “ the said laws are hereby confirmed, finally enact-
 “ ed, and ratified accordingly.

W. BRIDGMAN.”

But now the method is, not to recite the Acts
 themselves in the order of Council, but only the
 titles of them ; as will appear by the following
 form :

“ P R E S E N T

“ The KING's Most Excellent Majesty,

“ Lord President	“ Viscount Falmouth,
“ Duke of Queensberry	“ Viscount Ligonier
“ Earl of Holderness	“ Lord Berkeley of Stratton
“ Earl of Cholmondeley	“ Lord Grantham
“ Earl of Bute	“ Mr. Vice Chamberlain.

“ W H E R E A S, by Commission under the
 “ Great Seal of Great Britain, the Governor,
 “ Council, and Assembly of his Majesty's Pro-
 “ vince of Georgia, are authorised and impowered
 “ to make, constitute, and ordain laws, statutes,
 “ and ordinances for the public peace, welfare,
 “ and good government of the said Province,
 “ which laws, statutes, and ordinances are to be,
 “ as

“ as near as conveniently may be, agreeable to
 “ the laws and statutes of this kingdom, and to
 “ be transmitted for his Majesty's Royal appro-
 “ bation or disallowance: and whereas, in pur-
 “ suance of the said powers, an Act was passed in
 “ the said Province in May 1760, and transmit-
 “ ted, intituled as follows, *viz.*

“ An Act for stamping, imprinting, issuing,
 “ and making current, the sum of Seven
 “ thousand four hundred and ten pounds
 “ Sterling, in Paper Bills of Credit, and for
 “ applying and sinking the same.

“ Which Act, together with a representation
 “ from the Lords Commissioners for Trade and
 “ Plantations thereupon, having been referred to
 “ the consideration of a Committee of the Lords
 “ of his Majesty's most Honourable Privy Council
 “ for Plantation affairs, the said Lords of the
 “ Committee did this day report, as their opinion
 “ to his Majesty, that the said Act was proper to
 “ be approved. His Majesty taking the same
 “ into consideration, was pleased, with the advice
 “ of his Privy Council, to declare his approba-
 “ tion of the said Act; and, pursuant to his Ma-
 “ jesty's Royal pleasure thereupon expressed, the
 “ said Act is hereby confirmed, finally enacted,
 “ and ratified accordingly; whereof the Gover-
 “ nor or Commander in Chief of his Majesty's
 “ Province of Georgia for the time being,
 “ and all others whom it may concern, are to
 “ take notice and govern themselves accord-
 “ ingly. W. SHARPE.”

If a Governor has the least doubt whether an
 Act of Assembly, to which he is requested to give
 his

his assent, is constitutional, or else infringes on his Majesty's prerogative, in that case, if he does not reject it, he ought at least to refuse his assent, until both Houses of Assembly agree to add a clause to such Act, suspending the execution thereof, until his Majesty's pleasure is known; which suspending clause may be in the words following:

“ AND be it further enacted, That neither this
 “ Act, nor any thing herein before contained,
 “ shall be of any force, power, or efficacy; but
 “ the same is wholly suspended, until his Sacred
 “ Majesty's approbation and allowance thereof
 “ shall be signified to the Governor or Com-
 “ mander in Chief for the time being; any thing
 “ herein before contained to the contrary there-
 “ of in any wise notwithstanding.”

Or it may be thus:

“ PROVIDED lastly, and it is hereby de-
 “ clared, That neither this Act, nor any part
 “ thereof, shall take effect, until his most Sacred
 “ Majesty shall notify his confirmation and allow-
 “ ance thereof to his Governor or Commander
 “ in Chief of this Province for the time being;
 “ any thing herein before contained to the con-
 “ trary in any wise notwithstanding.”

C H A P. VIII.

Of Inferior Courts of Civil Jurisdiction.

IN all the Colonies there are Inferior Courts of Civil Jurisdiction, which hold plea in personal actions to a certain amount; which limitation in some Colonies is greater, in others less. In Jamaica, besides the Supreme Court, which has jurisdiction over all the Island, and holds plea to any amount, there are also Courts which have jurisdiction within certain districts, and hold plea where the debt or damages amount to twenty pounds only; and in which Courts matters of fact are tried by a Jury, in the same manner as in the Supreme Court. But in some of the Islands to Windward, the Chief Justice of the Superior Court sits alone, to try actions to a certain amount without a Jury:—in other Islands, personal actions to a certain amount are brought on before all the Judges of the Court, and are decided without a Jury, after all the Jury actions are finished. In the Colonies on the Continent, there are Inferior Courts held before the Justices of the Peace for particular districts, in which all matters of debt or damage under a certain sum are tried by a Jury; and the extent of those Inferior Courts are in some places bounded by the parish, in other places by different divisions. If the debt or damages are under forty shillings, Two Justices, and Three Jurymen, are sufficient to decide on them; if above forty shillings, and under eight pounds, then there must be Two Justices and Twelve Jurymen. In some Colonies those Courts are called Courts of Conscience, and in others County Courts;

Courts; the form of their process, and the mode of their proceedings, are usually set out at large in the Acts of Assembly, by which they are established. Where the debt or damages are under forty shillings, there is usually no power of appeal allowed; but in cases where the debt or damages exceed forty shillings, a Writ of Error is allowed, or liberty of appeal given to the Superior Court of Common Law. These Inferior Courts decide a great number of actions; but the Justices of Peace who preside therein are frequently plain men, and their proceedings are very irregular, little order or decorum being observed among them.

C H A P. IX.

Of the Superior Courts of Civil Jurisdiction.

I SHALL first begin with the West India Islands, by observing, that, in the Island of Jamaica, the Superior Court of Common Law is called The Supreme Court, and is a King's Bench, Common Pleas, and Exchequer; and this being a large Island, it has of late years been divided into districts; and the Judges of the Supreme Court go in circuit round the Island.

In Barbadoes, the Island is divided into five precincts, for each of which there is a Court of Common Pleas, with a distinct set of Judges. The greatest length of this Island is about twenty miles and three quarters, and its greatest breadth about thirteen miles and three quarters:—it seems therefore very absurd to have so many distinct Superior Courts in such a small Island.—Had there been one Superior Court established for the

whole Island, in the center of it; in that case five Gentlemen, who had some experience in the law, might have been found to fill the Office of Judges: but it is not to be conceived, that such a small Island can afford to pay proper salaries to twenty-five Judges; by which means, none but a man who has little knowledge, and much vanity, will accept of the Office of a Judge, which is attended with little or no profit.

Antigua was formerly divided into two precincts; but at present there is only one Court of Common Pleas for the whole Island.

In the rest of the Leeward Charibbee Islands, the Superior Court of Common Law is a King's Bench and Common Pleas.

In all the Southern Colonies on the Continent, before the Civil War, the Superior Court was, a King's Bench, Common Pleas, and Exchequer.

I shall now make some observations on the proceedings of the Superior Courts of Civil Jurisdiction in the Colonies, which will apply to all the West India Islands, and also, as I apprehend, to all the Provinces on the Continent before the Civil War.—In the first place, all original Process, and even Writs of *Dedimus Potestatem* to Commissioners, to take renunciations of Dower, are issued by the Court of Common Law itself, and tested in the name of the Chief Justice:—and the Chancery issues no Writ in the form of a *Præcipe*, or *Si te fecerit securum*, or any other process whereon to found the proceedings of the Courts of Common Law, except Writs of *Audita Querela*, which must necessarily be issued by the Chancellor; and instances of the issuing of such Writs of *Audita Querela*, I have known in different Colonies. But I remember no case when the Chancellor issued any other Writ

the Court of Common Law to hold plea; and by reason thereof, that which in Westminster Hall is *Mefne Procefs*, viz. the Summons in Dower, the *Capias* in Trespass, &c. are the original Procefs in the Colonies.

2. No real actions have ever been used in the Colonies, except actions of Dower; for all titles to land have been tried either by Ejectment, Trespass, or Replevin.

3. The mode of commencing actions in the Colonies is various:—In the West India Islands, they commence the action by filing the Declaration in the Office, and a copy of such Declaration, with a Summons, is served by one of the Marshall's Bailiffs on the Defendant: but if the Defendant is absent from the Island, and hath appointed an Attorney, then, if the Letter of Attorney is registered in the Secretary or Register's Office, the Declaration and Summons are to be served on such Attorney; or, if he is not to be met with, they are to be left at his dwelling-house or place of abode:—if no such Letter of Attorney is registered in the Office, then, if the Defendant has a Plantation in the Island, the Declaration and Summons must be served on the Manager or Overseer of such Plantation; and if neither of is to be met with, the Declaration and Summons must be left at the House upon such Plantation: but if the Defendant has no Plantation on the Island, the service must be, by nailing up a copy of the Declaration and Summons at the door of the Court-house. This mode of service is not perfectly the same in every stage of it, but is substantially the same in every Island.

On the Continent before the Civil War, their proceedings were more conformable to the practice

tice in Westminster Hall : they had four Courts in the year : the action was commenced by suing out a Writ, which was made returnable on a day certain ; and after the return of the Writ, the Plaintiff filed his Declaration.

In all the West India Islands, the Superior Courts of Common Law have been established by Acts of the General Assembly ; for which *see* the Laws of each of these Islands. In most of the Colonies on the Continent, these Superior Courts of Common Law were established by Letters Patent under the Great Seal of the Province, by the King's instructions to his Governor, on the first institution of the King's government in the Province.

Under this head I have given no forms, because the method of proceeding in Civil Actions in all the Colonies is conducted, as near as local circumstances will admit, agreeable to the practice in the Court of Common Pleas in Westminster Hall.

LETTERS PATENT *for establishing a General Court in the Province of Georgia.*

GEORGIA.

GEORGE the Second, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth. To all to whom these our present Letters shall come greeting ; Know ye that we, tendering the state and condition of our Province of Georgia, and being willing and desirous that justice be duly and regularly administered therein, have thought fit to erect and constitute, and by these presents do erect and constitute a Court of Record, by the name and style of the General Court, to be holden

yearly at Savannah, within our said Province, on the second Tuesday in January, the second Tuesday in April, the second Tuesday in July, and the second Tuesday in October, before our trusty and well-beloved Noble Jones and Jonathan Bryan, Esqrs; or one of them, whom we hereby appoint our Justices thereof, during' our pleasure, and others our Justices appointed for the time being. And we do hereby give and grant unto the said Noble Jones and Jonathan Bryan, and each of them, and all others our Justices of the said General Court, for the time being, full power, jurisdiction and authority, to enquire, by the oaths of good and lawful men of the Province aforesaid, and by other ways and means by which the truth of the matter may be better known and enquired into, of all treasons, felonies, and other crimes and criminal offences whatsoever, done or committed within our said Province by any persons whatsoever, and the same to hear and determine, according to the laws and customs of our said Province; saving to us, and our successors, all fines, forfeitures, and amerciaments, and all other things to us on account thereof belonging and appertaining. And further, we give and grant to the said Noble Jones and Jonathan Bryan, and each others our Justices of our said General Court for the time being, full power, jurisdiction, and authority, to hold pleas in all and all manner of causes, suits, and actions whatsoever, as well criminal as civil, real, personal, and mixed, arising, happening, or being within our said Province, where the sum or thing demanded shall exceed the value of forty shillings sterling; except only where the title to any freehold shall come in question; and to proceed in such pleas, suits, and actions, by such ways, means, and process, as may
with

with the greatest safety, dispatch, and justice, bring the same to a final determination, and also to hear and determine all such pleas, suits, and actions, and judgment thereupon to give, and execution thereof to award and issue, and this as fully and amply as can or may be done by our Courts of King's Bench, Common Pleas, and Exchequer in England, doing therein what of right and justice ought to be done.—In testimony whereof we have caused these our Letters to be made Patent, and the Seal of our said Province to be affixed thereto. Witness our trusty and well-beloved John Reynolds, Esq; our Captain-General and Governor in Chief in and over our said Province of Georgia, the twelfth day of December, in the twenty-eighth year of our reign.

J. REYNOLDS.

By his Excellency's
command,
JAMES HABERSHAM,
Secretary.



C H A P. X.

Of the ~~Superior~~ COURTS of Criminal Jurisdiction.

IN England the criminal business is divided between the Assizes and Quarter Sessions.—But in the Colonies, the whole of the criminal business centers in one Court.—In Jamaica, St. Christopher's, and Nevis, the Superior Court has the same jurisdiction there as the King's Bench and Common Pleas have in England; and that was the case in some of the Colonies on the Continent before the Civil War.—But in the Islands of Barbadoes, Antigua, Montserrat, and in some other Colonies, the Criminal Court is distinct from the Common Pleas, and consists of a number of Judges, *viz.* of the Members of the Council, the Judges of the Common Pleas, the Justices of the Peace, and the Judge of the Court of Vice-Admiralty, &c.—This Court is inconvenient; for the Judges are, in general, unacquainted with the law, and often commit mistakes. Their number is so great, that should they do wrong, there is no getting at them. And as most of the principal men in the Colony sit in this Court, hardly any thing can come on but some of them are connected with it.

Such of the pleadings in criminal causes (as well as those in civil cases) which are drawn by Counsel, are conducted in a manner similar to that used in the Superior Courts in Westminster Hall:—but in all the Islands except Jamaica, the entry of the judgment, and the other Acts of the Court, are not entered at large, agreeable to the practice in England; but are short minutes made
by

by the Officer of the Court, who is frequently unacquainted with the law forms.

The following case happened whilst I resided in the West Indies :

The Town of ——— in the Island of ———, was laid out in parallel lines, intersecting each other at right angles.—One G— built a house in the middle of a street there, called North Street, and an indictment for a nuisance was found against him. When the indictment came on to trial, the Prosecutor's Counsel asked ———, the Attorney General, on which side he was concerned? to which he answered, That he was concerned for the Defendant.—It was then objected, That the Court ought not to suffer the King's Attorney General to appear against him; and the practice of the Courts in Westminster Hall was mentioned.—The President of the Court said, That the custom of that Country was different: and the Attorney General was suffered to appear for the Defendant, who was found guilty of the nuisance.—The Attorney General, as Counsel for the Defendant, then moved, That judgment might be arrested; but this motion was overruled: and then, on the motion of the Prosecutor's Counsel, and agreeable to the doctrine in the 1 Hawkins P. C. 200. the Defendant was commanded by the Court to remove the nuisance at his own costs; and judgment was respited until the then next Sessions. The Defendant did not remove the nuisance; but brought a Writ of Error, which was made returnable before the day for holding the then next Sessions, and was therefore no Superfedeas. On this ground, the Prosecutor's Counsel moved for the judgment of the Court, on the authority of the cases of Baker

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and Bullstrode, 1 Ventris 255. Ayers and Lent-hall, 3 Keble 308. Prydyerd and Thomas, 1 Ventris 96, and of 1 Siderfin 466. But notwithstanding these cases, the Court declined to give any judgment; and there the matter rested.

I shall trouble the Reader with no forms under this head; for the method of proceeding in criminal cases in the Colonies, is similar to that of the Superior Courts in England.—But process of outlawry hath never been issued in any Colony, either in civil or criminal cases, that I can learn. In those Colonies in which I resided, no such thing ever happened.

C H A P. XI.

Of the JUDGES of the SUPERIOR COURTS in the COLONIES.

EVERY Judge in the Colonies holds his Commission during his Majesty's pleasure, and the residence of such Judge in the Colony. The Chief Justices are in general appointed by warrant under his Majesty's Sign Manual and Signet, by the authority of which warrant, Letters Patent are made out in the Colony, tested by the Governor or commander in Chief for the time being, and under the Great Seal of the Colony. For these instruments, see the following forms: Wherever a salary is annexed to the office of Chief Justice, and the income is sufficient to induce a man of abilities to accept of it, a proper person is appointed from England to fill such office; but by the Assistant Judges are, in general, appointed the Governor, and are almost always unacquainted with the law. In such of the Colonies where the inhabitants

habitants are able to bear the expence of raising salaries for their Judges, it is not to be expected that Great Britain should sustain that expence; but the leading men in some Colonies may perhaps oppose every attempt to provide proper salaries for the Chief Judges by Act of Assembly, as they may expect to fill those offices themselves; whereas, if salaries were annexed to them, proper Judges would be sent from England. In a northern climate, where men are phlegmatic, it would be difficult to prevail on an ignorant country esquire to sit in judgment on the lives and properties of his fellow-subjects, even if a salary was allowed him; but in southern climates, where men in general have much vivacity, and a great love of power, we may observe, that without any knowledge of the law, they court these employments. It would be invidious to descend to particulars; but I cannot avoid observing, that several years ago, when I resided in the West Indies, and was conversant with four Islands, there was not in either of these Islands one Judge that had been regularly bred to the law. In some of the West India Islands, it is necessary that there should be three Judges on the Bench, in order to proceed to business, which is an inlet to much abuse; for some of the Judges have frequently absented themselves, under different pretences, that there might be no Court. An instance of this kind happened some years ago in one of the Islands in the West Indies that I was acquainted with. A Chief Judge had a Bond and Warrant of Attorney to confess judgment, standing out against him; and by the law of the Island, such a judgment could not be entered up, except at the sitting of the Court: matters so managed, that a number of Judges, suff

hold a Court, did not meet for a considerable time, and the creditor was kept out of his money.

Formerly some persons in — had taken an undue advantage of being privileged from arrest, on which the Legislature of that Island, in the year 1740, passed an Act, declaring, That from thenceforth no Judge, &c. or any other Minister of the Law, should thereafter have privilege to enter any common appearance for the discharge of any bail bond in any case whatsoever. Many years after this Act passed, when I was in the West Indies, an Assistant Judge was arrested for debt:—at the next Court it was moved on his behalf, that he should be discharged, on entering a common appearance. In vain did the Plaintiff's Counsel urge the Act of Assembly against such application;—the gentleman on the Bench said, That they only were Judges of their own privileges; and the Assistant Judge's bond was discharged on his entering a common appearance. I shall only further observe on this head, that, as the Judges there were in general unacquainted with the law, they frequently asked the opinion of some leading Lawyer in matters that came before them; which gave such lawyer an amazing ascendancy in the Island, as many who resided there must remember.

WARRANT under his Majesty's Sign Manual and Signet, for the Appointment of a Chief Justice in one of the Colonies.

GEORGE R.

TRUSTY and well-beloved, we greet you well,
Whereas we have taken into our Royal consideration the loyalty, integrity, and ability of
our

our trusty and well-beloved A. B. Esq; we have thought fit hereby to authorise and require you forthwith to cause Letters Patent to be passed under the seal of our Province of C—, constituting and appointing him the said A. B. our Chief Justice of, and in our said Province, in the room of L. M. Esq; deceased. To have, hold, execute, and enjoy the said office unto him the said A. B. for and during our pleasure, and his residence within our said Province, together with all and singular the rights, profits, privileges, and emoluments unto the said place belonging, in the most full and ample manner, with full power and authority to hold the Supreme Courts of Judicature at such places and times as the same may and ought to be held within our said province: and for so doing, this shall be your warrant; and so we bid you farewell. Given at our Court at St. James's the twenty-third day of March 1769, in the ninth year of our reign.

By his Majesty's Command,

H—.

A. B. Esq; Chief Justice of C—.

This warrant was under the King's Signet, and directed to the Governor of C—, and in his absence, to the Commander in Chief there, exactly as in the Mandamus for a Member of the Council.

LETTERS PATENT under the Great Seal of a Colony, for the Appointment of a Chief Justice, in pursuance of the before-mentioned Warrant.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King Defender of the Faith, &c. To all whom

presents shall come, greeting : Know ye, That we having taken into our Royal consideration the loyalty, integrity, and ability, of our trusty and well-beloved A. B. Esq; have constituted and appointed him the said A. B. our Chief Justice of and in our Province of C— in America, in the room of L. M. Esq; deceased, to have, hold, execute, and enjoy the said office unto him the said A. B. for and during our pleasure; and his residence within our said Province, together with all and singular the rights, profits, privileges, and emoluments unto the said place belonging, in the most full and ample manner, with full power and authority to hold the Supreme Courts of Judicature at such places and Times as the same may and ought to be held, within our said Province. In Witness whereof we have caused these our Letters to be made Patent. Witness his Excellency D. E. Esq; our Captain-General and Governor in Chief in and over our said Province of C—, at F—, the first day of September, in the ninth year of our reign.

D. E.

By his Majesty's Warrant, under his
 Royal Sign Manuel and Signet,
 dated at his Court at St. James's,
 the 23d day of March, 1769, in
 the ninth year of his reign.

Great
 Seal of
 C—.

C H A P. XII.

Of the COUNSEL and ATTORNIES in the COLONIES.

IN Jamaica and Barbadoes, the departments of Counsel and Attorney are distinct, and they have several gentlemen of ability in the Law, who attend at the bars in those Islands. In St. Christopher's, the branches of Counsel and Attorney were separate, and only four Attornies were allowed, until the year 1764, when an Act of Assembly passed to enable any person admitted to the bar to practise as an Attorney and Solicitor, on taking the oath appointed to be taken by Attornies and Solicitors; and at this day, the departments of Counsel and Attorney are united in all the Colonies, except Jamaica and Barbadoes. The union of these two branches has been productive of much inconvenience; for the practical part has so much employed the attention of the Colony Advocates, that few of them have leisure to attain to any considerable degree of knowledge. The law practitioners in the Colonies are of three sorts; first, Gentlemen who have been called to the bar at the Inns of Court in London, and who are of course admitted to practise, on their producing certificates of their being called to the bar: secondly, those who have served Clerkships in Great Britain, Ireland, or the Colonies: and thirdly, those who through interest are admitted to the bar, without serving a regular Clerkship, and who (according to the phrase of the country) are said to turn lawyers.

Of all the Barristers who practised in the Colonies, and afterwards returned to Eng

have attempted to practise at the bars here; for the following reasons: The Judges in the Colonies being, in general, unacquainted with the Law, order and decorum are not properly attended to, and little improvement can be got under such masters.

Most of the questions that arise in the Colonies are founded in litigation, and not in intricacy; and, as the gentleman of the bar in general go out there at an early period in life, before they are arrived at any considerable share of knowledge, they have it not in their power to gain much experience in the Colonies, and most of the Judges not being bred to the profession of the law, the Advocate, who has the greatest fluency, may sometimes be considered as the ablest lawyer.

C H A P. XIII.

Of the COURT of VICE-ADMIRALTY.

THE Court of Vice-Admiralty in the Colonies exercises three sorts of jurisdiction.

In the first place, it is the proper Court for deciding all Maritime Causes.

2dly, It is the Court for the trial of Prizes taken in time of war, or hostilities between Great Britain and any other State, to determine whether the Captures be or be not lawful prize. And,

3dly, The Court of Vice-Admiralty in the Colonies has a concurrent jurisdiction with the Courts of Record there, in the case of forfeitures and penalties incurred by the breach of any Act of Parliament relating to the trade and revenues of the British Colonies in America; for the informer or prosecutor hath the election of proceeding either in any Court of Record in the Colonies
where

where such offence is committed, or in the Court of Vice-Admiralty there, for the recovery of those penalties and forfeitures.

In the first place, as to the jurisdiction exercised in the Court of Vice-Admiralty in the Colonies, in deciding all Maritime Causes, or Causes arising on the High Seas. I have only to observe, that it proceeds in the same manner that the High Court of Admiralty in England does.

The only book that I have met with, which treats of the practice of the High Court of Admiralty in England, is Clerke's Praxis Admiraltatis; and this is the book used by the practitioners in the Colonies. As there are few Admiralty forms to be met with in print, I shall give the Reader some precedents for his information.

INSTRUCTIONS for the Execution of a Warrant from the Court of Admiralty to arrest a Ship, agreeable to the Practice used in the High Court of Admiralty in England.

THE Warrant must be executed by a person who can write and read, whose name must be first inserted in the blank left in the beginning of the Warrant for that purpose, by his going on board the ship, and producing the Warrant to the Master, Commanding Officer, or some of the Crew on board, and declaring before them, that he doth, by virtue of the said Warrant, arrest the said ship, her tackle, apparel, and furniture, at the suit of J. B. W. E. and Company, late mariners of the said ship, in an action of *£*.—Sterling, and that he doth cite all persons neral, having or pretending to have title, or interest in the premises, to :

time and place, and to the effect mentioned in the said Warrant: then let him fix a copy on the mainmast, and leave it there; and after supplying the blanks in the certificate indorsed on the back of the Warrant, let him subscribe his name thereto, and make oath thereof before a Master in Chancery, or the Mayor of the Town, and then let him return the Warrant to the Proctor in Doctors Commons.

Should you be apprehensive the Master intends to run away with the ship, you may take the sails on shore, or put a man on board to secure her under the arrest.

*A CERTIFICATE of the Service of a WARRANT
from the Admiralty to arrest a Ship.*

ON the day of the month of in
the year of our Lord this Warrant was
duly executed, by arresting the within mentioned
ship the (whereof N. N. is Master) her
tackle, apparel, and furniture, lying at
and by citing all persons in general, having or
pretending to have any right, title, or interest
therein, to appear at the time and place, and to
the effect within mentioned.

P. S.

On the day of in
the year of our Lord
the aforefaid P. S. was
sworn to the truth of the
above Certificate, before
me.

R. R.

LIBEL

LIBEL for Wages.

St. CHRISTOPHER's. In the Court of Vice-Admiralty, on the second day of April, in the year of our Lord 1767, before the Honourable R. H. Esq; Judge Surrogate of the Court of Vice-Admiralty, held for the Island of St. Christopher.

Thomas Edwards, late mariner of a certain merchant ship, called the Kitty, whereof J. N. is Master, against the said ship, her apparel, and furniture, and also against the said J. N. in a certain cause of Subtraction of the Wages both Civil and Maritime.	}	Upon which day, H. P. as lawful Proctor of the said Thomas Edwards, by all better and more effectual ways and means, and also to all intents and purposes in law what-
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soever, doth say, allege, and in law propound articulately, as follows: (that is to say,)

First, That in the month of June, in the year of our Lord 1766, the said Ship the Kitty, whereof the said J. N. then was, and is now master, being at the port of Bristol, in the kingdom of Great Britain, and designed on a voyage to the Coast of Guinea, and from thence to the West Indies, and so back again to the said port of Bristol, the said J. N. did, by himself or agent, upon the high and open seas, within the ebbing and flowing thereof, and jurisdiction of the Court of Admiralty of the Island of St. Christopher ship and hire the said Thomas Edwards as Second Mate on board the said ship on voyage, at and after the rate of 3l.

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ney of Great Britain, by the month; and the said Thomas Edwards did, on or about the 18th day of June aforesaid, go on board, and enter into service of the said ship; and the said ship proceeded on the said voyage, and took in a cargo of slaves on the said coast of Guinea, and then came to the said island of St. Christopher, where she delivered her said loading; and the said Thomas Edwards served as Second Mate aforesaid on board the said ship, from the said 18th day of June aforesaid to the 3d day of March aforesaid, being eight months and five days, which amounts to the sum of 24l. 7s. 6d. whereof received, in Sterling money, the sum of 7l. which being deducted from the sum of 24l. 7s. 6d. there remains due to the said Thomas Edwards the sum of 17l. 7s. 6d. and the said Thomas Edwards well and truly performed his office and duty of Second Mate on board the said ship during all the said time, and was obedient to the lawful commands of the Master thereof, and well and truly deserved the said monthly wages, and so much or greater monthly wages than was usually given to persons serving in such capacity in other ships on the like voyage; and this was and is true; and so much the said J. N. hath confessed and acknowledged to be true; and the party proponent doth allege and propound of any other time and place and salary, wages, sum and sums of money, and of every thing else, as shall appear from the proofs to be made in this cause.

Second, That all and singular the premises were and are true, public, and notorious, and thereof there was and is a public voice, fame, and report, and of which legal proof being made, the party proponent prays right and justice to be effectually administered

ministered to him and his party in the premises, &c.

There are very few Admiralty forms to be met with in print; and those used in the Colonies are too loose and inaccurate to deserve notice.

From the Court of Vice-Admiralty in the Colonies an Appeal lies to the High Court of Admiralty of England. An Appeal may also be brought from the Court of Vice-Admiralty before the King in Council. 3 Black. Com. 69.

2dly, As to the jurisdiction which the Court of Vice-Admiralty in the Colonies exercises, for the trial of prizes taken in time of war, or hostilities between Great Britain and any other State, to determine whether the Captures be or be not lawful prize.

When two powers are at war, they have a right to make prizes of the ships, goods, and effects of each other upon the high seas. Whatever is the property of the enemy may be acquired by capture at sea; but the property of a friend cannot be taken, provided he observes his neutrality. Answer to the Exposition of Motives in 1 Magens on Insurances, 487.

By the Maritime Law of Nations, universally and immemorially received, there is an established method of determination, whether the capture be, or be not, lawful prize.—Idem.

Before the ship or goods can be disposed of by the Captor, there must be a regular judicial proceeding, wherein both parties may be heard, and condemnation thereupon as prize, in a Court of Admiralty, judging by the Law of Nations Treaties.—Idem.

The proper and regular Court of condemnations, is the Court of that the captor belongs.—Idem.

A claim of ship or goods must be supported by the oath of some body, at least as to belief.—*Idem*, fol. 488.

If the sentence of the Court of Admiralty is thought to be erroneous, there is in every maritime country a superior Court of Review, consisting of the most considerable persons, to which the parties who think themselves aggrieved may appeal; and this Superior Court judges by the same rule which governs the Court of Admiralty, viz. The Law of Nations, and the treaties subsisting with that neutral power whose subject is a party before them.—*Idem*, 489.

If no Appeal is offered, it is an acknowledgment of the justice of the sentence by the parties themselves, and conclusive.—*Idem*.

In Great Britain and her Colonies, the property of prizes being given in war to the captors, the King cannot arbitrarily release the capture, but leaves all cases to the decision of the proper Courts, judging by the Law of Nations and Treaties, where there are any; and it never was imagined, that the property of a foreign subject, taken as prize on the high seas, could be affected by laws peculiar to England.—*Idem*, 505.

Every State has an equal right to erect Admiralty Courts for the trial of prizes taken by virtue of their respective commissions; but neither has a right to try the prizes taken by the other, or to reverse the sentences given by the other's tribunal. The only regular method of rectifying their errors, is by Appeal to the Superior Court.—*Idem*.

This is the clear Law of Nations; and by this method prizes have always been determined, in every other maritime country in Europe, as well as England.—*Idem*.

In case of prize vessels taken in time of war, in any part of the world, and condemned in any Courts of Admiralty or Vice-Admiralty as lawful prize, the Appeal lies to certain Commissioners of Appeals, consisting chiefly of the Privy Council, and not to Judges Delegates: and this, by virtue of divers treaties with foreign nations, by which particular Courts are established in all the maritime countries of Europe for the decision of this question, whether lawful prizes or not: for this being a question between subjects of different States, it belongs entirely to the Law of Nations; and not to the municipal laws of either country to determine it. The Original Court to which this question is permitted in England, is the Court of Admiralty; and the Court of Appeal is, in effect, the King's Privy Council; the Members of which are, in consequence of treaties, commissioned under the Great Seal for this purpose. In 1748, for the more speedy determination of Appeals, the Judges of the Courts of Westminster-hall, though not Privy Councillors, were added to the commission then in being: but doubts being conceived concerning the validity of that commission, on account of such addition, the same was confirmed by Statute 22 Geo. II. c. 3. with a proviso, that no sentence given under it should be valid, unless a majority of the Commissioners present were actually Privy Councillors. But this did not, I apprehend, extend to any future commissions.—
3 Black. Com. 69, 70.

The most useful books to a lawyer in the Colonies, in questions on captures at sea in time of War, are Grotius of War and Peace. — Vattel's *Questiones Jurispublici*, Vol. Nations, &c. and the Answer
Great Britain to the Exposition

of the King of Prussia; which see at large in the 1st vol. of Magens on Insurances, from 486 to 509. Vattel (b. 2. c. 7. §. 48) calls this an excellent piece on the Law of Nations.

When the King declares war against a foreign State, a Commission under the Great Seal of Great Britain, issues to the Lords Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland, &c. in the following form :

GEORGE R.

GEORGE the Second, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To our High Admiral of Great Britain and Ireland, &c. for the time being, and to our right trusty and well-beloved Councillor George Lord Anson; our trusty and well-beloved William Ponsoby, Esq; commonly called Lord Viscount Duncannon; Thomas Villiers, Esq; Sir William Rowley, Knight of the Bath; Edward Boscawen, Esq; our right trusty and well-beloved Cousin John Lord Viscount Bateman, of our kingdom of Ireland; and our trusty and well-beloved Richard Edgcumbe, Esq; our Commissioners for executing the Office of our High Admiral of Great Britain and Ireland, &c. and to our Commissioners for executing that Office for the time being, greeting : Whereas we, by our Declaration of the 17th day of May, in the year of our Lord 1756, for the reasons therein contained, have declared war against France; these are therefore to authorise, and we do hereby authorize and enjoin you our High Admiral of Great Britain and Ireland, &c. for the time being, and you our said Commissioners for executing the Office of our High Ad-
miral

miral of Great Britain and Ireland, &c. and the Commissioners for executing the said Office for the time being, or any three or more of you, to will and require our High Court of Admiralty in England; and the Lieutenant and Judge of the said Court, and his Surrogate, as also the several Courts of Admiralty within our dominions; and they are hereby authoris'd and required to take cognizance of, and judicially to proceed upon, all and all manner of captures, seizures, prizes, and reprizals of all ships and goods already seized and taken, and which hereafter shall be seized and taken, and to hear and determine the same; and according to the course of Admiralty and Laws of Nations, to adjudge and condemn all such ships, vessels, and goods, as shall belong to France, or the Vassals and subjects of the French king, or to any other inhabiting within any of his countries, territories, and dominions, and all such other ships, vessels, and goods, as are or shall be liable to confiscation, pursuant to the respective treaties between us and other Princes, States, and Potentates. In witness whereof, we have caused our Great Seal of Great Britain to be affixed to these presents. Given at our Court at Kensington, the 4th day of June, in the year of our Lord 1756, and in the 29th year of our reign



On the receipt of this Commission, the Lords of the Admiralty issue their Warrant to every Court of Vice-Admiralty in the Colonies; of which the following is a form

By



Admiralty
Seal.

By the Commissioners for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

WHEREAS his Majesty has declared war against France, we do, in pursuance of his Majesty's Commission under the Great Seal of Great Britain, dated the 4th day of this inst. June (a copy whereof is hereunto annexed) hereby will and require the Vice Admiralty Court of the Leeward Islands, and the Vice Admiral or his Deputy, or Judge of the said Court, or his Deputy now and for the time being, to take cognizance of, and judicially to proceed upon all and all manner of captures, seizures, prizes, and reprisals of all ships and goods already seized and taken, and which hereafter may be seized and taken, and to hear and determine the same; and according to the course of Admiralty and laws of nations, to adjudge and condemn all such ships, vessels, and goods, as shall belong to France, or the vassals and subjects of the French King, or any other inhabiting within any of his countries, territories, or dominions, and all such other ships, vessels, and goods as are or shall be liable to confiscation, pursuant to the respective treaties between his Majesty and other Princes, States, and Potentates, which shall be brought before them for trial and condemnation; and for so doing this shall be their sufficient warrant. Given under our hands and seal of the office of Admiralty, this 5th day of June 1756, and in the 29th year of his Majesty's reign.

ANSON.
BATEMAN.
R. EDGECUMBE,
To

To the Vice Admiralty Courts
of the Leeward Islands, and
the Vice Admiral or his De-
puty, or Judge of the said
Court, or his Deputy now
and for the time being.

By Command of their Lordships,
J. CLEAVLAND.

I have not met with any Admiralty preced-
ings in Prize Causes in print; but here follow
some precedents, which I collected when I was in
the West Indies; they may be inaccurate in some
respects, but, for want of others, I shall lay them
before the Reader.

I would gladly have got some forms from the
practisers in Doctors Commons, and I accord-
ingly used endeavours for that purpose; but I did
not succeed.

*A Copy of the Proceedings in the Court of Vice Ad-
miralty in Antigua, in the Case of a French Vessel
and her Cargo, that were taken by an English Pri-
vateer.*

ANTIGUA. At a Court of Vice Admiralty held
for this Island, on Wednesday the
8th day of September 1756,

P R E S E N T :

The Hon. ROBERT CHRISTIAN, Esq. Judge
Surrogate.

<p>The Private Schooner of War, Mary, Edward Richards, Commander, against Schooner, Poisson Volant.</p>	<p>} Proclamation be- ing made, and the Court called and sat, and the execution of a monition duly his cause being proved by the Marshal</p>
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Marshal of this Court, John Hart, Esq;
Advocate for the Libellant, prayed that
the Libel might be read, which was ac-
cordingly read in the following words :

ANTIGUA.
In the Court of Vice } Monday the 30th day of
Admiralty. } August 1756.

The Schooner Le Poisson Volant, whereof one
Gasper was Master.

Edward Richards, Commander of the Private
Schooner of War, Mary,
against
The said Schooner Poisson Volant, her Tackle,
Apparel, and Furniture, and the Goods
therein taken and seised.

THOMAS WARNER. On which day, Thomas
Warner, as lawful Proc-
tor of the said Edward
Richards, Commander of
the said private Schooner
of War the Mary, by all
lawful ways and means,
and to all effects of
law whatsoever, alleged,
pleaded, and articulately
propounded, as follows :
(to wit,)

1. That on or about the 18th day of May 1756,
war and hostility was declared by his Majesty
King George the Second against the French King,
his subjects and vassals, and this was and is true,
public, and notorious; and the party proponent
doth

doth allege and propound of any other time, and all and every thing jointly and severally.

2. That the said Schooner Poisson Volant, whereof the said Gasper was Master, on or about the 13th of this instant August, being a French Schooner belonging to the French King, his vassals or subjects, was, by the said private Schooner of War called the Mary, whereof the said Edward Richards is Commander, taken and seised as lawful prize, and afterwards carried into the port of St. John in Antigua; and the party proponent doth allege and propound as before.

3. That the said Schooner Le Poisson Volant and goods, were and are the schooner and goods belonging to the French King, his vassals or subjects, or others inhabiting within his countries, territories, or dominions, and ought to be confiscated; condemned, and adjudged to be good and lawful prize, as being the schooner and goods of the enemies of the Crown of Great Britain; and the party proponent doth allege and propound as before.

4. That all and singular the premises were and are true, public, and notorious; and thereof there was and is a public voice, fame, and report, of which legal proof being made, the party proponent prays you Robert Christian, Esq; Judge Surrogate of the said Court of Vice Admiralty, That right and justice be duly administered to him and his party in the premises; and that the said schooner, her tackle, apparel, and furniture, and the goods taken therein, be pronounced to belong at the time of the capture of the same to the French King, his vassals, subjects, or others inhabiting within his countries, territories or dominions, and as such liable and subject to confiscation, and to be adjudged and condemned as
and

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and for good and lawful prize by you, and your definitive sentence to be given in this behalf.

Which being read, proclamation was made to see if any person would come in to claim the said schooner, her tackle, apparel, and furniture, and her cargo; but no person appearing to claim the same, the following depositions taken *in preparatio* were read :

ANTIGUA.

In the Court of Vice
Admiralty.

} INTERROGATORIES administered to witnesses *in preparatio*, touching and concerning the seizure and

taking of a certain Schooner, named Princess of Orange, alias Flying Fish, whereof Casparus Wynneburgh was Master, by the private Schooner of War Mary, whereof Edward Richards is Commander.

1. Where was you born, and where do you now live, and how long have you lived there, and where have you lived for seven years last past? are you subject to the Crown of Great Britain, or of what Prince or State are you a subject?

2. When, where, and by whom was the schooner and lading, goods and merchandises, concerning which you are now examined, taken and seized, and into what place or port were the same carried? whether was there any resistance made, or any guns fired against the said schooner, or persons who seized and took the same, and what and how many, and by whom?

3. Whether was you present at the time of the taking or seizing the schooner and her lading, goods and merchandises concerning which you are now examined, or how and when was you first made acquainted thereof? whether was the said

said schooner and goods taken by a man of war, or a private man of war, and to whom did such man of war, or private man of war belong? had they any commission to act as such, and from and by whom, and by what particular vessel, or by whom was or were the said schooner seized and taken? to what kingdom, country, or nation did the said schooner so seized and taken belong, and under the colours of what kingdom, country, or nation did she sail at the time she was so seized and taken? was the said schooner, which was taken, a man of war, privateer, or merchantman?

4. Upon what pretence was the said schooner seized and taken? to what port or place was she afterwards carried? whether was she condemned, and upon what account, and for what reason was she condemned, and by whom, and by what authority was she so condemned?

5. Who by name was the master of the vessel concerning which you are now examined, at the time she was taken and seized? how long have you known the said master? who first appointed him to be master of the said schooner, and when did he take possession thereof, and who by name delivered the same to him? where is the said master's fixed place of habitation with his wife and family, and how long has he lived there? what countryman is he by birth, and to what Prince or State subject?

6. What number of mariners belonged to the said schooner at the time she was taken and seized? what countrymen are they, and where did they all come on board? whether had you, or any of the officers or company, or mariners belonging to the said schooner or vessel, any part, share, or interest in the said schooner concerning which you

are now examined, and what in particular, and the value thereof, at the time the said schooner was so taken, or the said goods seized?

7. Whether did you belong to the schooner or vessel concerning which you are now examined, at the time she was taken and seized? how long had you known her? when and where did you first see her? of what burthen was she? how many guns did she carry? and how many or what number of men did belong to, or were on board the said schooner at the time she was taken, or at the beginning of the engagement before she was taken? and of what country building was she? what was her name, and how long had she been so called? whether do you know of any other name she was called by? and what were such names, as you know or have heard?

8. Towhat ports and places was the said schooner or vessel concerning which you are now examined bound, the voyage wherein she was taken and seized? to and from what ports or places did she sail the said voyage before she was taken and seized? where did the voyage begin, and where was the voyage to have ended? what sort of lading did she carry at the time of her first setting out on the said voyage, and what particular sort of lading and goods had she on board at the time she was taken and seized, proceeding upon a lawful trade? had she at that time any, and what prohibited goods on board her?

9. Who were the owners of the said schooner and vessel, and goods concerning which you are now examined, at the time she was taken and seized? how do you know they were the owners of the said schooner and goods at that time? of what nation are they by birth, and where do they live

live with their wives and families? and to what Prince or State are they subjects?

10. Was there any bill of sale made to the owners of the said schooner? in what month or year, and where and before what witnesses was the same made, and when did you last see it, and what is become thereof?

11. In what port or place was the lading, which was on board the schooner at the time she was taken and seized, first put on board the said schooner? in what month and year was the lading so put on board? what were the several qualities and quantities, and particulars thereof? whether were the same laden and put on board the said schooner in one port, or at one time, or in several ports and places, and how many by name, and at how many several times, and what particulars and what quantity at each port? who by name were the several laders or owners thereof, and what countrymen are they? where were the said goods to be delivered, and for whose account, and to whom by name did they then really belong?

12. How many bills of lading were signed for the goods seized on board the said schooner? whether were the same colourable, and whether were any bills of lading signed, which were of a different tenor with those which were on board the said schooner at the time she was seized and taken? and what were the contents of such other bills of lading, and what are become thereof?

13. What bills of lading, invoices, letters, or any instruments in writing, or papers, have you to prove your own property, or the property of any other person, and of whom in the schooner and goods, concerning which you are now examined? produce the same, and set forth the particular

particular times when, and how, and in what manner, and upon what account, and for what consideration you became possessed thereof?

14. In what particular port or place, and in what degree of latitude were or was the schooner, concerning which you are now examined, taken and seized? at what time, and upon what day of the month, and in what year, was or were the said schooner so taken and seized?

15. Whether was there any charter party signed for the voyage, wherein the schooner, concerning which you are now examined, was taken and seized? what is become thereof? when, where, and between whom was the same made? what were the contents thereof?

16. What papers, bills of lading, letters, or other writings, any way concerning or relating to the schooner concerning which you are now examined, were on board the said schooner at the time of the seizure of the said schooner? were any of the papers thrown overboard by any person, and whom, and when, and by whose orders?

17. What loss or damage have you sustained, by reason of the seizing and taking of the said schooner concerning which you are now examined? to what value does such loss or damages amount? and how and after what manner do you compute such loss and damage? have you received any and what satisfaction for such the loss and damage which you have sustained, and when and from whom did you receive the same?

ANTIGUA.

In the Court of Vice Admiralty. }

The EXAMINATION of WITNESSES touching the Seizure of the Schooner Poisson Volant, and the Goods and Merchandises on board her, made by the private Schooner of War Mary, Edward Richards Commander.

To the 1st Interrogatory, this Deponent saith, That he was born in Genoa, and that he is a subject of that republic, and a mariner; that he has no particular place of residence, but is employed sometimes by one nation, and sometimes by another, wherever he can get a livelihood.

To the 2d Interrogatory, this Deponent saith, That the schooner Le Poisson Volant, concerning which he is now examined, was seized and taken by the private schooner of war Mary, on Friday the 13th of this inst. August, within a reef near the Island of Guadaloupe; and that the said schooner, so seized and taken, was brought into the port of St. John's in the Island of Antigua; and this Deponent further saith, there was no resistance made by the said schooner which was so taken and seized.

To the 3d Interrogatory, this Deponent saith, That he was one of the mariners on board the said Schooner Le Poisson Volant, at the time she was so seized and taken; and that the Schooner Le Poisson Volant, as this Deponent believes, is owned by Monf. Moreau of St. Eustatius, who this Deponent believes is a Frenchman: and this Deponent saith, that the lading on board was taken in at Guadaloupe, and consists of sugar, ginger, and coffee and farine; and is, as this Deponent believes, the returns of a cargo the said

U

schooner

schooner carried up from St. Eustatia to Guadalupe: and this Deponent saith, That at the time the said Schooner *Le Poisson Volant* was taken, she had no colours hoisted; but that before she was boarded she hoisted Dutch colours.

To the 4th Interrogatory, this Deponent saith, That the master of the said Schooner *Le Poisson Volant*, at the time she was taken, was a Dutchman named Gasper, and that he is a Creole of Curacow, and generally lives at St. Eustatia, and took possession of the said schooner at St. Eustatia.

To the 5th Interrogatory, this Deponent saith, That there were seven mariners belonging to the said Schooner *Le Poisson Volant*, including the said Master, *viz.* two Portuguese, one Frenchman, two Spaniards, and the said Master, and this Deponent, and a free Negroe; and this Deponent saith, that he was no way concerned in the said Schooner *Le Poisson Volant*, or her lading.

To the 6th Interrogatory, That the Schooner *Le Poisson Volant*, has been always called by that name, ever since he has been aboard her, and that she was hailed by that name, and answered to it as such; and does not know she was ever called by any other name.

To the 7th Interrogatory, this Deponent saith, That the said Schooner *Le Poisson Volant* was to return to St. Eustatia, after she had taken in her lading at Guadalupe, and that the lading she carried to Guadalupe consisted of mackrel and salt fish; and at the time such schooner was taken, she had no prohibited goods on board.

To the 8th Interrogatory, says, He knows of no bills of lading that were signed for the goods and merchandises now on board the Schooner *Le Poisson Volant*.

To

To the 9th Interrogatory, says, He expects to lose nothing but his wages, if the vessel be adjudged as lawful prize.

The Mark of

Sworn before me this

16th of August 1756, JOSEPH LOPEZ.

by the interpretation of

PETER GUICHENET,

ROBERT CHRISTIAN.

To the 1st Interrogatory, this Deponent says, He was born at Bourdeaux, and is a subject of the French King; and is a mariner, and hath used the sea for about six years.

To the 2d Interrogatory, That the schooner and lading concerning which he is now examined, were seized and taken by the private schooner of war Mary, on Friday the 13th inst. within a reef near Guadaloupe; and that such schooner, so taken, was brought into the harbour of St. John; and says there was no resistance made by such schooner at the time she was taken.

To the 3d Interrogatory, says, He was one of the mariners on board the said schooner so taken, at the time she was so seized and taken; and that the lading now on board her, consists of sugar, coffee, ginger, and farine, and was taken in at Guadaloupe; and that when she was boarded, she had Dutch colours hoisted, and at the time she brought to.

To the 4th Interrogatory, says, The Master of the said schooner so taken was a Dutchman named Gasper, and believes he is a Dutchman.

To the 5th Interrogatory, says, There " seven mariners on board the schooner and taken, including the Master.

were Portuguese, one Frenchman, two Spaniards, and the Master, and a Genoese.

To the 6th Interrogatory, says, The said schooner so seized and taken has, ever since he has been aboard her, which is about a month, been called by the name of *Le Poisson Volant*, and has been always hailed by that name, and answered to such name; and does not know she was ever called by any other name.

To the 7th Interrogatory, says, The said schooner *Le Poisson Volant* was to return to St. Eustatia, after she had taken in her lading at Guadaloupe; and says the same schooner took aboard at Guadaloupe, a trunk belonging to some of the inhabitants of that Island to be carried to another place in that Island, which trunk was aboard at the time of the capture; and that at such time she had no contraband goods aboard: And this Deponent says, That at the time of the capture, such schooner had not completed her lading, but was going to Grand Ance in Guadaloupe, to take in six hogheads of sugar, which would have completed her lading.

To the 9th Interrogatory, says, He expects to lose nothing but his wages, if the vessel be adjudged as lawful prize.

Sworn before me this 16th of	The mark of
August 1756, by the inter-	+
pretation of PETER GUICH-	JEAN ANDRE.
ENET.	

ROBERT CHRISTIAN.

To the 1st Interrogatory, this Deponent saith, That he was born in the Province of Biscay in France, and is a subject of the French King; and
that

that he has no particular place of residence, his employment being a mariner.

To the 6th Interrogatory, says, The schooner *Le Poisson Volant*, concerning which he is now examined, has been usually called by that name; but that *Monf. Moreau* told this Deponent she was called the *Princess of Orange*.

To the 7th Interrogatory, says, The schooner *Le Poisson Volant* took in a trunk at *Lamantin* in *Guadaloupe*, which was to be delivered at *Grand Ance* in the said Island; which trunk was aboard at the time she was seized and taken by the schooner *Mary*.

To the 8th Interrogatory, says, That he was a mariner aboard the schooner *Le Poisson Volant* at the time she was taken; and that she was owned by a French merchant in *Guadaloupe*, whose name he does not recollect, some time before the seizure thereof; and that the lading now aboard was taken in at *Guadaloupe*, and consists of sugar, ginger, coffee and farine, and believes the same is the returns for a cargo sent up from *St. Eustatia* to *Guadaloupe*.

To the 9th Interrogatory, says, He expects to lose nothing but his wages, if the schooner *Le Poisson Volant* be adjudged as lawful prize.

Sworn before me this 16th	The mark of
of August 1756, by the	+
interpretation of PETER	JEAN DE LA CROIX.
GUICHENET.	

There were also produced and read the following Exhibits:

ANTIGUA.—In the Court of Vice-Admiralty.

JAMES KING of the Island of Antigua, and
Lieutenant on board the private schooner

Mary, being duly sworn upon the Holy Evangelists of Almighty God, maketh oath, That the papers now produced and delivered to Robert Christian, Esq; Judge Surrogate of the Court of Vice-Admiralty of the said Island, are all the papers that were on board the schooner *Le Poisson Volant* at the time she was seized and taken by the said private schooner of war *Mary*; which papers were delivered to this Deponent by the Master of the said schooner at the time he went on board her, when she was seized and taken by the said private schooner of war *Mary*.

Sworn before me this 14th JAMES KING.
August 1756.

ROBERT CHRISTIAN.

ANTIGUA.—In the Court of Vice-Admiralty,

The Affirmation of Jonathan Atkinson, touching the ownership of the *Poisson Volant*, or the *Princess of Orange*, taken and seized by the private schooner of war *Mary*, Edward Richards Commander.

JONATHAN ATKINSON of the Island of Antigua, merchant, being one of the people called Quakers, doth solemnly declare and affirm, That on the twenty-first instant, this Deponent was at the Island of St. Eustatia, in company with Mr. Moreau of St. Eustatius, and this Affirmant then congratulated him, in a jocular manner, of a schooner of his named the *Poisson Volant*, or the *Prince of Orange*, being taken by an English privateer, owned by Mr. John Yeamans and others, and carried into the Island of Antigua; upon which Mr. Moreau told this Affirmant, that he did not own the said schooner *Poisson Volant*, or *Princess of Orange*, though he heard she had been
been

been fathered upon him; nor was he then any way concerned in the said schooner: and this Affirmant further saith, That the said Moreau told him, this Affirmant, that the loading of the said schooner Poisson Volant, might be consigned to the said Moreau by Frenchmen; but that he did not know it was.

JONATHAN ATKINSON.

Affirmed to before me this 24th

day of August 1756,

ROBERT CHRISTIAN.

In the Court of
Vice-Admiral-
ty.

{ The private schooner of war
the Mary,
against
The schooner Le Poisson Vo-
lant, and her cargo, &c.

ANTIGUA.

MILES BURKE, late of the Island of St. Eustatia, but now of the Island of Antigua, merchant, being duly sworn on the holy Evangelists of Almighty God, deposeth and saith, That he lived in St. Eustatia for some years past, and is well acquainted with Messrs Moreau and Marcells of the same place, merchants and partners in trade; and said, that not long since he had a call to Antigua on the business, where he resides at present, and being informed that the schooner Le Poisson Volant, which he knew by the name of the Princess of Orange in St. Eustatia, was brought into this Island by the privateer schooner called the Mary; and being also informed that the same schooner Le Poisson Volant, otherwise the Princess of Orange, belonged to the said Messrs Moreau and Marcells, he wrote them word to St. Eustatia, that their said schooner was brought in here as a prize, that they might come up to claim her if

they thought proper, as subjects to the States of Holland; and saith, That he received an answer thereto, the letter marked (A) now produced to him. And further deposeeth, That he hath often seen the hand-writing of the said Moreau, in the way of business in St. Eustatia; and believes that the names Moreau and Marcells, subscribed to the said letter marked (A) directed to this Deponent, and received by him as aforesaid, are of the proper hand-writing of the said Mr. Moreau. And further deposeeth, That the paper-writing marked (B) produced to him at the same time, importing to be a letter, but without any direction, was inclosed in the said letter marked (A) contained, and desired to be delivered to the Dutch schooner formerly called the Princess of Orange; by which postscript this Deponent supposes it is intended, that he should deliver it to the Captain of the said prize schooner, whose name is Gasper, as this Deponent hath heard and believes.

MYLES BURKE.

Sworn before me August
31st 1756.

ROBERT CHRISTIAN.

(In the original here followed the letters of Moreau, and Moreau and Marcell, which it is useless to insert.)

ALL which having been read and considered, his Honour the Judge proceeded to pronounce the following sentence :

IN THE NAME OF GOD, Amen. I Robert Christian, Judge Surrogate of the Court of Vice-Admiralty of the Island of Antigua, being specially constituted and appointed to hear and determine all and all manner

manner of causes and complaints, as to ships and goods seized and taken as prize, having seen, heard, and understood, and fully and maturely discussed the merits and circumstances of a certain business of taking and seizing a certain schooner named *Le Poisson Volant*, whereof Gasper was master, her tackle, apparel and furniture, and the goods taken therein by a private schooner of war called the *Mary*, whereof Edward Richards was Commander, by virtue of a Commission or Letter of Marque lawfully granted to the said Edward Richards, and brought into the port of St. John's in the Island of Antigua, which was lately and is still depending before me, on the part and behalf of the said Captain Edward Richards, against the said schooner *Le Poisson Volant*, her tackle, apparel and furniture, and the goods taken therein, and against all persons in general, who have or pretend to have, any right, title, or interest in the said schooner *Le Poisson Volant* or goods; and I rightly and duly proceeding therein, and the said Captain Edward Richards appearing before me by his proctor Thomas Warner, who prayed sentence to be given, and justice to be done to his party, and all others in general having, or pretending to have, any right, title, or interest in the said schooner *Le Poisson Volant* or goods, being duly and legally cited, intimated, called, and not appearing, but contumaciously absenting themselves, and pronounced contumacious, in pain of the contempt of the parties cited and not appearing, having first enquired into and duly considered the whole proceedings had and done before me in the said business; and having observed what by law ought to be observed in this behalf, have thought fit, and do think fit thus to proceed to the giving and promulging of my definitive

finitive sentence, or final decree in the said business, in manner and form following: (that is to say,) Forasmuch as I have, by the acts alleged, pleaded, propounded, and proved in the said business, found and clearly discovered, that the proctor of the said Edward Richards, hath sufficiently founded his intention deduced in a certain allegation given and admitted on his behalf in the said business, and now remaining in the registry of this Court; which said allegation, and other matters propounded, exhibited, and admitted, I take and will have taken, as if here read and inserted for me, to pronounce for the condemnation of the said schooner *Le Poisson Volant*, her tackle, apparel, and furniture, and the goods in the same, as the schooner and goods belonging to the French King, his vassals or subjects, or others inhabiting within any of his countries, territories, or dominions, enemies of the Crown of Great Britain, as hereafter mentioned: Therefore I Robert Christian, Judge Surrogate, first calling upon the name of CHRIST, and having God alone before my eyes, and having heard learned Counsel in the law thereupon, do hereby pronounce, decree, and declare, That the said schooner *Le Poisson Volant*, whereof the said Gasper was master, and her tackle, apparel, and furniture, and the goods taken therein, were rightly and duly taken and seized by the private schooner of war called the *Mary* by virtue of the said Letter of Marque granted to the said Edward Richards; and that the said schooner *Le Poisson Volant*, her tackle, apparel, and furniture, and the goods taken therein did, at the time of the capture and seizure thereof (as far as appears to me) belong to the French King, his vassals or subjects, or others inhabiting within his countries, territories,

or dominions, enemies of the Crown of Great Britain, and as such ought to be accounted and reputed liable and subject to a confiscation, and to be adjudged and condemned as and for good and lawful prize to the said Captain Edward Richards; and I do adjudge and condemn the said schooner *Le Poisson Volant*, her tackle, apparel, and furniture, and the goods therein taken, as and for good and lawful prize to the said Edward Richards, as being a schooner and goods of the enemies of the Crown of Great Britain, or otherwise liable to confiscation, by this my definitive sentence or final decree, which I read and promulge by these presents.

COPY of the Proceedings in the Court of Vice-Admiralty in Antigua, in the Case of a British Vessel that was taken by the French, and afterwards retaken by two English Ships of War.

At a Court of Vice-Admiralty held for this Island, on Tuesday the 31st day of August 1756,

P R E S E N T :

The Honourable Robert Christian, Esq; Judge Surrogate.

His Majesty's ship of war
Edinburgh, William
Langdon, Esq; Com-
mander; His Majesty's
ship *Augusta*, John
Wickham, Esq; Com-
mander;

against

The schooner *Betty*, and
her lading.

PROCLAMATION being
made, and the Court
called and sat, Tho-
mas Warner, Esq;
Advocate for the Li-
bellants, and prayed
that the Libel might
be

ANTIGUA. } Monday the 30th day of
In the Court of Vice- } August 1756.
Admiralty.

The schooner *Betty*, whereof James Nichols was master,—William Langdon, Esq; Commander of his Majesty's ship of war called the *Edinburgh*; and John Wickham, Esq; Commander of his Majesty's ship *Augusta*; against

The said Schooner, her Tackle, Apparel, and Furniture, and the goods therein taken and seized.

On which day Thomas Warner, as lawful Proctor of the said William Langdon, Commander of the said ship of war the *Edinburgh*, and of the said John Wickham, Commander of the said ship of war *Augusta*, by all lawful ways and means, and to all effects of law whatsoever, alleged, pleaded, and articulately propounded as follows (to wit);

1st, THAT on or about the 18th day of May 1756, war and hostilities were declared by his Majesty King George the Second, against the French King, his subjects and vassals; and this was and is true, public and notorious; and the party proponent doth allege and propound of any other time, and all and every thing jointly and severally.

2d, That the said schooner the *Betty*, whereof the said James Nichols was master, on or about the 26th day of this instant August, being a French schooner, belonging to the French King, his vassals or subjects, was, by the said ship of war called the *Edinburgh*, whereof the said William Langdon

don is Commander, and the said ship of war Augusta, whereof the said John Wickham is Commander, taken and seized as lawful prize, and afterwards carried into the port of St. John's in Antigua; and the party proponent doth allege and propound as before.

3d. That the said schooner and goods were and are the schooner and goods belonging to the French King, his vassals or subjects, or others inhabiting within his countries, territories, or dominions, and ought to be confiscated, condemned, and adjudged to be good and lawful prize, as being the schooner and goods of the enemies of the Crown of Great Britain; and the party proponent doth propound and allege as before.

4th, That all and singular the premisses were and are true, public, and notorious, and thereof there was and is a public voice, fame, and report, of which legal proof being made, the party proponent prays you, Robert Christian, Esq; Judge Surrogate of the Court of Vice-Admiralty, held for Antigua aforesaid, that right and justice be duly administered to him and his party in the premisses; and that the said schooner, her tackle, apparel, and furniture, and the goods taken therein, be pronounced to belong, at the time of the capture of the same, to the French King, his vassals, subjects, or others inhabiting within his countries, territories, or dominions, and as such liable and subject to confiscation, and to be adjudged and condemned as and for good and lawful prize by you, and your definitive sentence to be given in this behalf.

The Libel being read, proclamation was made, to see if any person would come in to claim the said schooner, her tackle, apparel, and furniture, and

and lading; and Charles Wager Man, Esq; coming in according to the said proclamation, interposed the following claim, as proctor of Andrew Lefslly the younger, of the said Island, merchant, on behalf of Henry Baker and Richard Patten of Charlestown, in the Province of Maryland, merchants, sole owners of the said schooner, and also on behalf of the several owners of the goods taken therein, which he prayed might be read.

ANTIGUA.—In the Court of Vice-Admiralty.

William Langdon, Esq; Commander of his Majesty's ship Edinburgh, and John Wickham, Esq; Commander of his Majesty's ship Augusta;

against

The schooner Betty, her Tackle, Apparel, and Furniture, and her Lading.

CHAS. W. MAN.

The Claim of Andrew Lefslly the younger, of the said Island, merchant, for and on behalf of Henry Baker and Richard Patten of Charlestown, in the Province of Maryland, merchants, sole owners of the said schooner Betty, and also for and on behalf of the several owners of the goods therein taken.

THE said Andrew Lefslly the younger doth, on behalf of Henry Baker and Richard Patten, sole owners of the said schooner Betty, now under prosecution, claim the said schooner, with her tackle, apparel, and furniture; and also claim her cargo, consisting of one hundred and thirty barrels of flour, and fifty-two barrels of fish, for and on behalf of the said Henry Baker, Hansey Dolph, John Rusden Reid, and Thomas Palmer, all of the

the Province of Maryland aforesaid, as owners thereof; and that he hath been informed, and believes, that the said schooner Betty, with her tackle, apparel, and furniture, are the property of the said Henry Baker and Richard Patten, and that the said cargo of flour and fish is the property of the said Henry Baker, Hansley Dolph, John Rusden Reid, and Thomas Palmer: wherefore the said Andrew Lessly the younger prays, That the said schooner Betty, and her tackle, apparel, and furniture, and her said cargo of flour and fish, may be adjudged to be restored to him for the benefit of the said several owners, according to their respective interests and properties therein, upon his paying to the captors thereof such salvage as, by the Act of Parliament in such case made and provided, is directed to be paid.

ANDREW LESSLY, *jun.*

Sworn this 31st day of August

1756, before me

ROBERT CHRISTIAN.

Which being read, the following Depositions taken on the part of the Libellants, were ordered to be read:

ANTIGUA.—In the Court of Vice-Admiralty.

PERSONALLY appeared John Lindsay, master's mate of his Majesty's ship the Edinburgh, and being duly sworn upon the Holy Evangelists of Almighty God, maketh oath, That the papers now produced by this Deponent, and delivered to Robert Christian, Esq; Judge Surrogate of the said Court of Vice-Admiralty, are all the papers that were found on board the said schooner Betty,

Betty, John Nichols master, at the time she was taken by his Majesty's said ship Edinburgh.

JOHN LINDSAY.

Sworn before me this 30th

August 1756.

ROBERT CHRISTIAN.

ANTIGUA.

In the Court of Vice-Admiralty.

The Examination of JEAN BOUCHE, touching the recapture of the schooner Betty, and her Lading, by his Majesty's ship Edinburgh.

THIS Deponent being duly sworn on the Holy Evangelists, deposeth and saith, That he was born at Martinique, and that he is a subject of the French King: And this Deponent further saith, That on Tuesday the twenty-fourth instant, about half an hour after eleven o'clock at noon, the schooner Betty and her lading, concerning which he is now examined, were taken by Les Deux Amis, a French privateer, commanded by Michael Revost, belonging to the Island of Martinique, to the northward of Antigua, about a mile and a half distant from the land; and that this Deponent was put on board the said schooner, and was carrying her to Guadaloupe: And this Deponent saith, That about seven o'clock in the morning of the twenty-sixth instant, the said schooner Betty, and her lading, concerning which he is now examined, were retaken by his Majesty's ship the Edinburgh, William Langdon, Esq; Commander, in sight of Guadaloupe: And this Deponent further saith, That the printed paper now produced and shewn to him, marked letter

(A),

(A), is a true copy of the Commission of the said privateer Les Deux Amis.

Sworn before me the 30th J. BOUCHE.
August 1756.

ROBERT CHRISTIAN.

(The printed paper marked letter (A), and referred to in the foregoing Deposition; and the Copy of the French privateer's Commission, are not necessary to be set out.)

Then were also read the following Depositions, taken on the part of the Claimant:

ANTIGUA.

In the Court of Vice-Admiralty. }

John Wickham, Esq; Commander of his Majesty's ship Augusta, and William Langdon, Esq; Commander of his Majesty's ship Edinburgh;

AGAINST

The schooner Betty, her Tackle, Apparel, and Furniture.

The Claim of Andrew Lesley the younger, of the said Island merchant, for and on behalf of Henry Baker and Richard Patten of Charlestown, in the Province of Maryland, merchants, sole owners of the said schooner Betty, and also for and on behalf of the several owners of the goods taken therein.

The depositions of Isaac Dunstan and Alexander Walker, mariners, taken before the Honourable Robert Christian, Esq; Judge-rogate of his Majesty's Court of Vice-Admiralty of the said Island, concern capture and recapture of the said

called the Betty, lately retaken from the French by John Wickham, Esq; Commander of his Majesty's ship Augusta; and William Langdon, Esq; Commander of his Majesty's ship Edinburgh, and brought into the harbour of St. John in Antigua, and now under prosecution in the said Court of Vice-Admiralty held for Antigua.

THE said Deponents being duly sworn on the Holy Evangelists of Almighty God, severally make oath, That the said schooner Betty, belonging to Henry Baker and Richard Patten, resident merchants in Charlestown, in the Province of Maryland, sailed from Charlestown aforesaid about the latter end of July last, being laden with one hundred and thirty barrels of flour, and fifty-two barrels of fish; and that the said Henry Baker and Richard Patten are the sole owners of the said schooner: that eight barrels of fish on board her belong to the said Henry Baker, and the other forty-four barrels belong to one Hansey Dolph, an inhabitant of Maryland: that eighty-seven barrels of flour on board belong to John Rusden; thirty-one barrels of flour to one Reid, a merchant in Maryland; and the remaining twelve belong to one Thomas Palmer; and that the said schooner Betty was commanded by James Nichols, to whom the said schooner and her cargo was consigned; and these Deponents say, That all and every the above-named persons are subjects to the Crown of Great Britain; and these Deponents further say, that they were bound for this Island of Antigua, and on the twenty-fourth day of this instant August, about noon, the said schooner was taken by a French privateer sloop, mounting twelve carriage guns: that the Frenchmen took
the

the Captain, and all the vessel's papers, one mariner, and a passenger, on board the privateer, and left these Deponents on board the schooner; and that the said schooner was retaken on the twenty-sixth day of August inst. by his Majesty's ships Augusta and Edinburgh, off Deseada, having then on board the said schooner six Frenchmen, and these Deponents; and that the said schooner was brought into the Road of St. John, where she now lays.

The mark of + ISAAC DUNSTAN.

The mark of 7 ALEX. WALKER.

Sworn this 31st day of August,

1756, before me,

ROBT. CHRISTIAN.

All which having been read, and duly weighed and considered, his Honour the Judge did, and hereby doth declare, That the said schooner Betty, and her lading, doth belong to his Majesty's subjects, and that the same schooner and her lading were taken upon the 24th day of August inst. by the French ship of war Les Deux Amis, and were retaken by his Majesty's ships Edinburgh, William Langdon, Esq; Commander, and Augusta, John Wickham, Esq; Commander; therefore his Honour doth hereby adjudge and pronounce as his definitive sentence, that the said schooner Betty and her lading be restored to the said Andrew Lefslly, on behalf of the owners thereof, and that the said Andrew Lefslly do pay to William Langdon, Esq; and John Wickham, Esq; one-eighth part of the true value of the said schooner and her lading, free from all deductions whatever, to be distributed as directed by his Majesty's Proclamation; and for the better ascer-

taining the value thereof, the Captors and Claimants are to appoint each an Appraiser to be approved of by this Court, and a Writ of Appraisement is to issue for that purpose, and the said Claimant is to pay all costs to the Recaptors, to be taxed by the Court : and it is further ordered and decreed, That the said Andrew Lessly do give bond, with good security, to be approved of by this Court, to restore the seven-eighth parts of the said schooner Betty and her lading, after such deductions as aforesaid to the owners thereof, according to their respective interests therein.

ANTIGUA. Know all men by these presents, that we the Honourable Andrew Lessly, of the Island of Antigua, Esq; and Andrew Lessly the younger of the said Island, merchant, are held and firmly bound unto the Honourable Robert Christian, Esq; Judge Surrogate of the Court of Vice-Admiralty of the said Island, in the sum of 2000*l.* current gold and silver money of the said Island, to be paid to the said Robert Christian, or to his certain Attorney, Executors, Administrators, or Assigns, for the which payment well and truly to be made, we bind ourselves, and each of us, our and each of our Heirs, Executors, and Administrators, jointly and severally, firmly by these presents, sealed with our Seals, and dated the 1st day of September, 1756.

WHEREAS

WHEREAS the schooner Betty, whereof James Nichols was Commander, belonging to Henry Baker and Richard Patten, merchants in Charlestown, in the Province of Maryland, in North America, sailed from Charlestown aforesaid the latter end of July last, being laden with the following merchandise: that is to say, Eight barrels of fish, belonging to the said Henry baker; forty-four barrels of fish, belonging to one Hansey Dolph; eighty-seven barrels of flour, belonging to John Rusden; thirty-one barrels of flour, belonging to one Reid; and twelve barrels of flour, belonging to Thomas Palmer; all which persons are inhabitants of Maryland, and subjects to the Crown of Great Britain: and whereas the said schooner, on the 24th day of August last, was taken by a French privateer, and on the 26th day of the same month was retaken by his Majesty's ships Edinburgh and Augusta, and brought into the harbour of St. John's in this Island, and the Recaptors caused the said schooner and her cargo to be prosecuted in due form, in the Court of Vice-Admiralty in the said Island; and thereupon the above bound Andrew Lefly the younger, on behalf of the said owners of the said schooner and her cargo, did claim the same; and the said cause coming on to be heard on the 31st day of August last, his Honour the Judge Surrogate was pleased to declare, That the said schooner Betty and her lading did belong to his Majesty's subjects, and that the same schooner and her lading were taken upon the 24th day of August last, by the French privateer ship of war Les Deux Amis; and that the said Betty and her lading were retaken by his Majesty's ship Edinburgh, William Langdon, Esq; Commander, and his Majesty's ship Augusta, John ... Esq;

Commander: therefore his Honour did order, decree, and adjudge, That the said schooner Betty and her lading should be restored to the said Andrew Lefslly the younger, on behalf of the owners thereof; and that the said Andrew Lefslly the younger should pay to William Langdon, Esq; and John Wickham, Esq; one-eighth part of the true value of the said schooner and her lading, free from all deductions whatsoever, to be distributed as directed by his Majesty's Proclamation; and for the better ascertaining the value thereof, the Captors and Claimants were to appoint each an Appraiser to be approved of by this Court; and a Writ of Appraisement was to issue for that purpose, and the said Claimants were to pay all costs to the Recaptors, to be taxed by the Court; and it was further ordered and decreed, That the said Andrew Lefslly the younger should give bond, with good security, to be approved of by this Court, to restore the said schooner Betty and her lading, after such deductions as aforesaid, to the owners thereof, according to their respective interests therein, as in and by the said recited sentence relation thereto being had, will more fully appear. Now therefore the condition of the above written obligation is such, that if the above bounden, Andrew Lefslly the younger, or his heirs, executors, administrators, or Assigns, do and shall well and truly and faithfully restore the seven-eighth parts of the said schooner Betty and her lading, after such deductions thereout made as mentioned in the said recited sentence to the owners thereof, according to their respective interests therein, or shall well and truly pay the full value and amount of such seven-eighth parts of the said schooner Betty and her lading, after such deductions as aforesaid to the said owners, in man-
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ner as aforesaid, then the above written obligation to be void, or else to be and remain in full force and virtue.

ANDREW LESSLY, (L. S.)

ANDREW LESSLY, Jun. (L. S.)

Sealed and delivered in
the presence of

CHAS. W. MAN.

A MONITION in the ADMIRALTY.

ANTIGUA.

GEORGE the Second, &c. To Alexander Crawford, Esq; Deputy Provost Marshal of our Court of Vice-Admiralty held for our said Island, greeting: Whereas our beloved Benjamin King, Esq; Judge of our said Court, to hear and determine all and all manner of causes and complaints as to ships and goods seized and taken as prize, specially constituted and appointed, rightfully and duly proceeding, at the petition of the proctor of A. B. Commander of our ship C—, hath decreed all persons in general, who have or pretend to have any right, title, or interest in a certain ship called the D—, with her tackle, apparel, and furniture, and the goods, wares, and merchandises laden therein, lately taken by our said ship of war C—, and brought into the harbour of St. John in the said Island, to be monished, cited, and called to judgment at the time and place underwritten, and to the effect hereafter expressed, justice so requiring: we do therefore strictly charge and command you, jointly and severally, that you omit not by affixing of these papers on the public parade of the town of St. John in the said Island, at the usual time of the public

of merchants thereon, to monish and cite, or
cause to be monished and cited peremptorily
all persons in general, who have or pretend to
have any right, title, or interest in the said ship
D—, and her tackle, apparel, and furniture, and
the goods, wares, and merchandises taken there-
in, to appear before us, or our aforesaid Judge,
or his Surrogate, in the Court-house in the town
of St. John, upon the day of

between the hours of nine and twelve in the forenoon of the same day, to shew and allege, in due form of law, a reasonable and lawful cause, if any they have, why the said ship D— and her tackle, apparel, and furniture, and the goods, wares, and merchandises taken therein, should not be pronounced to belong, at the time of the capture of the same, to our enemies, and as goods of our enemies, or otherwise liable and subject to confiscation and condemnation, to be adjudged and condemned as good and lawful prize, and further to do and receive in this behalf as to justice shall appertain. And that you duly intimate moreover, or cause to be intimated peremptorily to all persons aforesaid, to whom we, by the tenor of these presents, do also intimate, that if they shall not appear at the time and place above-mentioned, or appearing, shall not shew a reasonable and lawful cause to the contrary, our aforesaid Judge, or his Surrogate doth intend, and will proceed to the pronouncing of the said ship D—, with her tackle, apparel, and furniture, and the goods, wares, and merchandises taken therein, to belong, at the time of the capture of the same, to our enemies, and as goods of our enemies, or otherwise liable to confiscation and condemnation, for good and lawful prize, the absence or other contumacy of the persons

the absence or other contumacy of the persons

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in NORTH AMERICA, &c.

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cited and intimated in any ways notwithstanding:
and that you duly certify our aforefaid Judge or
his Surrogate, what you do in the premises, to-
gether with these presents. Given at the town of
St. John, in our aforefaid Court, under the Seal
of the same for causes, the day of
in the year of our Lord and of our reign
the

Passed the office
N. G.

COPY of a SENTENCE *in the* COURT of VICE-AD-
MIRALTY *in* ANTIGUA.

ANTIGUA. At a Court of Vice-Admiralty held
for the said Island, on Monday the
29th day of May, 1758,

P R E S E N T:

The Honourable Robert Christian, Esq; Judge
Surrogate.

His Majesty's sloop Weazel Bowles, Esq;
Commander,

A G A I N S T

The ship La Demoiselle Alida and her lading.

PROCLAMATION being made, and the Court
called and sat, the execution of a Monition duly
issued being proved by the Marshal of the said
Court, and the substance of the libel being open-
ed by Mr. Warner and Mr. Man, a claim was
interposed by Mr. Horne, on behalf of the owners
of the said ship La Demoiselle Alida and her lad-
ing: whereupon, and upon reading in Court the
several depositions *in preparatorio*, and also the de-
positions taken in support of the said claim, and
the

the several exhibits produced in the said cause; and after hearing what could be said by Counsel on both sides upon debate of the matter, his Honour the Judge proceeded to pronounce sentence of condemnation in the usual manner, assigning such additional causes as are assigned in the preceding causes; whereupon Mr. Horne prayed an Appeal, which was granted upon giving the usual security.

*A true COPY of another SENTENCE in the COURT of
VICE-ADMIRALTY in ANTIGUA.*

ANTIGUA. At a Court of Vice-Admiralty,
held for the said Island, on Sa-
turday the 29th April, 1758,

P R E S E N T:

The Honourable Robert Christian, Esq; Judge
Surrogate.

The private Sip of war Charles, Robert Patten,
Commander,

A G A I N S T

The sloop Endraght and her lading.

PROCLAMATION being made, and the Court called and sat, and the execution of a Monition duly issued being proved by the Marshal of this Court, the substance of the libel was opened by Mr. Conyers. Then Mr. Horne interposed a claim on behalf of the owners of the said sloop and her cargo: whereupon, and upon reading in Court the several depositions taken *in preparatorie*, and also the depositions taken in support of the said claim, and the several exhibits produced the said cause, and after hearing what could

said by Counsel on both sides upon debate of the matter, his Honour the Judge proceeded to pronounce sentence of condemnation in the usual manner, assigning additional causes for pronouncing such sentence of condemnation: whereupon Mr. Horne prayed an Appeal from the said sentence; which was granted upon the said Claimant giving security as the law directs. Then Mr. Man exhibited an allegation or libel on behalf of the Captain, Officers, and Mariners of the private brigantine of war Prince of Wales; which allegation came on to be argued: whereupon it is ordered and decreed, that the libel on behalf of the said Robert Patten be dismissed. Then Mr. Warner, Attorney to his Majesty's Casual Receiver, interposed a claim for the said sloop and her lading on behalf of his Majesty; whereupon it was ordered and decreed, that the same sloop Endraght and her lading be divided between his Majesty and the said brigantine of war Prince of Wales share and share alike, subject nevertheless to such gratuity as his Honour the Judge Surrogate shall order and appoint for the Charles, upon the final determination of the said Appeal.

The Form of a CAUTION or SECURITY entered into on the granting the COMMISSION of a Private Ship of War.

ST. CHRISTOPHER'S.

IN the Court of Vice-Admiralty, on the twenty-sixth day of October, in the third year of the reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. On which day, time, and place, personally appeared William

William Webley, Commander of the private schooner of war called the Pelican, and A. J. and J. P. of the Island of St. Christopher, Gentlemen, who submitting themselves to the jurisdiction of the High Court of Admiralty of England, obliged themselves, their heirs, executors, and administrators, to our Sovereign Lord the King in the sum of 1500*l.* of lawful money of Great Britain. To this effect, that is to say, That whereas the said William Webley is authorised by Letters of Marque, or a Commission for a private man of war, to arm, equip, and set forth to sea the said schooner called the Pelican, of the burthen of about thirty tons, whereof he the said William Webley goeth Captain, with men, ordnance, ammunition, and victuals, to set upon by force of arms, and to subdue, seize, and take the men of war ships, and other vessels whatsoever, together with the goods, monies, and merchandises belonging to the French King, or any of his vassals and subjects, or others inhabiting within any of the countries, territories, or dominions whatsoever, and such other ships, vessels, and goods as are or shall be liable to confiscation, excepting only within the harbours or roads within shot of the cannon of any Princes and States in amity with his Majesty; and whereas he the said William Webley has a copy of certain instructions approved of, and passed by his Majesty in Council, delivered to him to govern himself therein, as by the tenor of the said Commission, and of the instructions thereto relating more at large appeareth. If therefore nothing be done by the said William Webley, or any of his Officers, Mariners, or Company, contrary to the true meaning of the said Instructions, but that the Commission aforesaid, and the said In-

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structions

structions shall in all particulars be well and truly performed and observed as far as they shall the said schooner, Captain, and Company, any way concern; and if they or any of them shall give full satisfaction for any damage or injury which shall be done by them, or any of them, to any of his Majesty's subjects, allies, or neuters, or their subjects, and also shall duly and truly pay, or cause to be paid to his Majesty, or to the Customers or Officers appointed to receive the same for his Majesty the usual customs due to his Majesty, of and from ships and goods so as aforesaid taken and adjudged for prize: and moreover, if the said William Webley shall not take any ship or vessel, or any goods or merchandises belonging to the enemy, or otherwise liable to confiscation, through consent or clandestinely, or by collusion, by virtue, colour, or pretence of his said Commission, that then this bail shall be void, and of none effect; and unless they shall so do, they do all hereby severally consent that execution shall issue forth against them, their heirs, executors, and administrators, goods and chattels, wherefoever the same shall be found, to the value of the said sum of 1500 l. before-mentioned; and in testimony of the truth thereof, they have hereunto subscribed their names.

WM. WEBLEY.

A. J.

J. P.

Taken and acknowledged before me Judge of his Majesty's Court of Vice-Admiralty of the Island of St. Christopher, the 26th day of October, in the year of our Lord 1762.

CRAISTER GREATHEED.

Form

*Form of an INHIBITION from the HIGH COURT of
APPEALS for PRIZES.*

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To all and singular our Officers and Ministers, and other our liege subjects, being literate persons, whomsoever and throughout our kingdom of Great Britain, and other our foreign Plantations and dominions, greeting: Whereas in a certain business of prize concerning the ship Neptune (William Callow, master) and goods therein taken by the private ship of war the Juno (James Amoss, Commander), which was moved and prosecuted before our beloved Abraham Chalwill, Esq; Judge of our Vice-Admiralty Court of Tortola, an Appeal and Complaint hath been made and interposed by the Proctor of the said William Callow, our subject, the Master and Claimant of the said ship Neptune and goods therein, from part of a sentence or decree made and interposed by the said Judge; and more especially from that part of the said sentence or decree, whereby he did decree, that the Captor should only pay the costs of suit, and not be liable or subject to any damages in consequence of his detaining the said brigantine the Neptune, and from his refusing to condemn the said Captor in all losses, damages, Demurrage, costs, charges, and expences whatsoever, which the said brigantine Neptune, the cargo on board, or the owners thereof, had or might suffer or sustain, as well in the hull, rigging, and cargo, as in the loss of markets at the Island of Jamaica, in consequence of such detention and illegal proceedings to us, and to our High Court of

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Admiralty

Admiralty of Great Britain: And whereas we have granted our Commission under our Great Seal of Great Britain for the hearing and final determination of all Causes of Appeal as to prizes to certain most noble and Right Honourable persons in our said Commission named: And whereas our beloved Andrew Coltée Ducarel, Doctor of Laws, their Surrogate, hath, at the petition of the Proctor of the party Appellant, decreed an inhibition, citation, and monition for the underwritten process, in manner and form hereafter expressed (justice so requiring): we do therefore strictly charge and command you, jointly and severally, that you peremptorily inhibit, or cause to be inhibited, the aforesaid Judge of our said Court, the Judge from whom the Appeal in this behalf is made, his Surrogate or Surrogates, and Register or Actuary; and also the said James Amos, Commander of the said private ship of war the *Juno* in special, and all other in general, who are by law to be inhibited in this behalf (all and every of whom we do also by the tenor of these presents inhibit), that they do not, or attempt or cause or procure to be done or attempted, any thing to the prejudice of the said party Appellant, or of his said Appeal, or our jurisdiction pending this business of Appeal and Complaint, and so long as the same shall remain undecided before the said most noble and Right Honourable persons, so that the said party Appellant may have free liberty and power (as in justice he ought) to prosecute this his business of Appeal and Complaint, under pain of the law and contempt thereof; and further, that you cite or cause to be cited, peremptorily, the said James Amos to appear before the said most noble and Right Honourable persons, or any three or more of them in
the

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the Privy Council Chamber at the Cockpit, on the hundredth day after service of these presents, if it be a Court day, or else upon the next Court day following, between the usual hours for hearing of causes, there to answer to the aforesaid party Appellant in this his business of Appeal and Complaint; and further to do and receive in this behalf as to justice shall appertain; and that you monish moreover, or cause to be monished peremptorily the Judge aforesaid, his Surrogate or Surrogates, and also his Register, Actuary or Actuaries, that they may transmit, or cause to be transmitted, the whole and entire process had and done before the said Judge, or his Surrogates, in the said business, in a proper and authentic form, or in their original forms, within one hundred days after service of this Monition, under pain of law and the peril which will fall thereon; and that you duly certify the said most noble and Right Honourable persons, or any three or more of them, what you shall do in the premises, together with these presents. Given at London, under the Seal of our High Court of Delegates, the 26th Day of April, in the year of our Lord 1762, and of our reign the second.

GODF. L. FARRANT, Reg.
of his Majesty's High Court
of Appeals for Prizes.

INSTRUCTIONS

INSTRUCTIONS *for executing an* INHIBITION,

Lords Commissioners of Appeals.

The Neptune, William Callow, } Appeal from
Master. } Tortola.

Instructions for the execution of the Inhibition, Citation, and Monition, issued under the Seal of his Majesty's High Court of Delegates, in the Cause of Appeal brought before the Lords Commissioners for hearing Appeals in Prize Causes, from the Judge of the Vice-Admiralty Court of Tortola, refusing to decree damages to the Claimant of the said Ship Neptune, in consequence of the unjust seizure and detention thereof by James Amos, Commander of the private Ship of War the Juno, the pretended Captor.

THE instrument herewith sent, contains an Inhibition against the Judge of the Vice-Admiralty Court of Tortola, against the Register of the said Court, and against the aforesaid James Amos, Commander of the said private ship of war the Juno, the pretended captor of the said ship and goods, and the promoter of the cause below, strictly commanding and enjoining them, and every of them, in his Majesty's name, not to do or attempt any thing to the prejudice of the said William Callow, the Claimant and Party Appellant, during this his Appeal; and also a citation against the said James Amos, to appear and answer to the said William Callow in his said cause of Appeal; and likewise a monition against the said Judge and Register to transmit to the Lords of Appeals copies of all and every the proceedings had in this cause, &c. duly authenticated

Y

under

under the hand of the Register and Seal of the said Vice-Admiralty Court, if not heretofore transmitted.

Therefore this instrument, containing the said inhibition, citation, and monition, must be served on the said several persons : (to wit)

1st, On the Judge of the Vice-Admiralty Court of Tortola.

2dly, On the Register of the said Court.

That they may be thereby inhibited from doing any thing further in the cause pending the Appeal, and that they do transmit the process as above.

3dly, On the said Captain James Amos, the Captor and Respondent on the Appeal.

4thly, On the Proctor acting for Capt. James Amos, in the first instance of this cause.

That they may be also inhibited, and likewise cited to appear and answer to the Party Appellant as therein contained.

The same must be served personally on them, and each and every of them, by shewing them the original instrument under seal, and at the same time leaving with each of them a copy thereof.

The person who serves the same, must, after he has so done, fill up the several blanks left, in the form of the underwritten Certificate, which must be indorsed on the instrument, for the times and places of service, &c. and then sign the same; which done, he must make and subscribe an affidavit, to be annexed to the said instrument, and be sworn thereto, before the Mayor or other Chief Magistrate of the place. The purport or effect of which affidavit must be as follows :

Form

Form of AFFIDAVIT of SERVICE.

On the day of 1763, appeared personally A. B. of and made oath on the Holy Evangelists as followeth; (to wit) That he this Deponent personally served the inhibition, citation, and monition hereto annexed, on Abraham Chalwill, Esq; the Judge of the Vice-Admiralty Court of Tortola, and on John Beaver, N. P. the Register of the said Court, and on the Proctor in the first instance of this cause, at the several times and places, and in manner and form mentioned in the Certificate indorsed thereon, to which Certificate the Deponent's name is subscribed; which name, he saith, is of his own handwriting, and that the contents of the said Certificate were and are all true.

The Magistrate must subscribe the Affidavit, certifying that the same were sworn before him, and the same must be authenticated under some public seal, and then, together with the original inhibition, returned by the first opportunity, and with all expedition to Mr. Puger.

If it so happens that any of the parties cannot be met with, so as to be personally served with the said inhibition, then let the copy be left at their usual place of habitation, and the original shewn to some one of their family, agent, clerk, or servant, so that they may have notice thereof; and in that case, the Certificate and Affidavit must be altered, and made accordingly: setting forth, That such party was, at such times and places, sought after, but could not be met with, so as to be personally served, and that therefore the original was at such time shewn to such a person (mentioning his name and the relation

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lation he bears to the party) and a copy thereof left with him, and that he was desired by the person serving the same, to acquaint the party therewith.

But if it be possible, let all the parties themselves be personally served.

Form of the CERTIFICATE.

This inhibition, citation, and monition, was personally served on Abraham Chalwill, Esq; the Judge of the Vice-Admiralty Court of Tortola, at on the day of 1763, and on John Beavor, Notary Public, the Register of the said Court, at on the day of 1763, and on the within-named Captain James Amos, the Respondent, at on the day of 1763, and on his Proctor in the first instance of this cause, at on the day of 1763, by shewing to them, and each and every of them, the same under seal; and at the same time leaving with them, and each and every of them, a true copy thereof. By me,

A. B.

Doctors Com-
mons, 16th
March 1763.

PHILIP CRESPIGNY, Jun.
Proctor for the Appellant.

Affirmance

*Affirmance by the King in Council, of a Sentence given
in the Vice Admiralty Court of the Island of St.
Christopher.*

At the Court at St. James's, the 26th day of July
1765.

P R E S E N T :



The KING's Most Excellent Ma-
jesty,

Archbishop of Canterbury,	Earl of Ashburnham,
Lord President,	Earl of Egmont,
Marquis of Rockingham,	Viscount Falmouth,
Lord Steward,	Viscount Howe,
Earl of Huntingdon,	Viscount Villiers,
Earl of Albemarle,	Lord Edgcumbe,
Earl of Dartmouth,	Lord Grantham.

UPON reading at the Board a report from the
Right Honourable the Lords of the Committee
of Council for hearing Appeals from the Planta-
tions, dated the 16th of this instant, in the words
following, viz.

“ Your Majesty having been pleased, by your
“ order in Council of the 12th of December
“ last, to refer unto this Committee, the humble
“ Petition and Appeal of John Barker, Esq. late
“ Commander of your Majesty's Ship Culloden,
“ against A—— S——, Commander of the
“ Privateer Mary Ann Elizabeth, and others,
“ from a sentence in the Vice-Admiralty Court of
“ the Island of St. Christopher, on the 5th of
“ March 1761, in relation to the Ship Elizabeth,
“ Sacker Peters Master, upon a question of
“ collusive capture; and humbly praying, that,
“ upon hearing the said Appeal, your Majesty
“ will

“ will be graciously pleased to pronounce and de-
 “ clare, that the said Ship Elizabeth and her
 “ cargo, were collusively taken by the said pri-
 “ vate ship of war the Mary Ann Elizabeth, and
 “ thereupon to reverse so much of the said sen-
 “ tence as dismisses the Petitioner’s libel, and
 “ condemns the said Ship Elizabeth and her
 “ cargo to the said A—— S——, his officers
 “ and mariners, or owners; and instead thereof,
 “ that your Majesty will be further pleased to
 “ pronounce for the right of your Majesty and
 “ the Petitioner, agreeable to the prayer of the
 “ Petitioner’s libel, by ordering the said Ship
 “ Elizabeth and her cargo, or the full value
 “ thereof, together with the tackle, furniture,
 “ ammunition, and apparel of the said private
 “ ship of war the Mary Ann Elizabeth, to be di-
 “ stributed moietytively between your Majesty and
 “ the Petitioner; or that your Majesty will be
 “ pleased to make such further or other order in
 “ the premises, as the nature and circumstances
 “ of the case may require, and as the Court be-
 “ low ought to have made. The Lords of the
 “ Committee, in obedience to your Majesty’s
 “ said order of reference, this day took the said
 “ Petition and Appeal into their consideration;
 “ and having heard all the parties therein con-
 “ cerned, by their Counsel learned in the law, do
 “ agree humbly to report, as their opinion, to
 “ your Majesty, that the sentence given in the
 “ Vice-Admiralty Court of the Island of St. Chri-
 “ stopher’s, on the 5th of March 1761, should
 “ be affirmed, and the said Petition and Appeal
 “ therefrom dismissed.”

His Majesty this day took the said report into
 consideration, and was pleased, with the advice
 of

of his Privy Council, to approve of what is therein proposed to be done ; and to order, as it is hereby ordered, that the same be duly and punctually complied with, and carried into execution.—Whereof the Governor, Lieutenant Governor, or Commander in Chief of his Majesty's Leeward Charibbee Islands for the time being, and all others whom it may concern, are to take notice and govern themselves accordingly.

W. SHARPE.

ADMIRALTY PRECEDENTS in the Course of the late War.

Orders for Reprisals by the Court of London.

At the Court at St. James's, the 18th of June
1779.

P R E S E N T :

The King's most Excellent Majesty in Council.

WHEREAS the Ambassador of the King of Spain, has, by order of his Court, delivered to Lord Viscount Weymouth a paper, in which it is declared, that his Catholic Majesty intends to have recourse to arms, under the groundless pretence of obtaining reparation for injuries supposed to have been received ; and whereas the said Ambassador has received orders to retire from this kingdom without taking leave, his Majesty being determined to take such measures as are necessary for vindicating the honour of his Crown, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that general reprisals be granted against the ships, goods, and subjects of the King of Spain, so that

as well his Majesty's fleet and ships, as also all other ships and vessels that shall be commissioned by letters of marque or general reprisals, or otherwise, by his Majesty's Commissioners for executing the office of Lord High Admiral of Great Britain, shall and may lawfully seize all ships, vessels, and goods, belonging to the King of Spain or his subjects, or others inhabiting within any the territories of the King of Spain, and bring the same to judgment in any of the Courts of Admiralty within his Majesty's dominions; and to that end, his Majesty's Advocate General, with the Advocate of the Admiralty, are forthwith to prepare the draught of a Commission, and present the same to his Majesty at this board, authorising the Commissioners for executing the office of Lord High Admiral, or any person or persons by them empowered and appointed, to issue forth and grant letters of marque and reprisal to any of his Majesty's subjects or others, whom the said Commissioners shall deem fitly qualified in that behalf, for the apprehending, seizing, and taking the ships, vessels, and goods belonging to Spain, and the vassals and subjects of the King of Spain, or any inhabitants within his countries, territories, or dominions, and that such powers and clauses be inserted in the said Commission as have been usual, and are according to former precedents; and his Majesty's said Advocate General, with the Advocate of the Admiralty, are also forthwith to prepare the draught of a Commission, and present the same to his Majesty at this board, authorising the said Commissioners for executing the office of Lord High Admiral, to will and require the High Court of Admiralty of Great Britain, and the Lieutenant and Judge of the said Court, his Surrogate or Surrogates, as also the several Courts

Courts of Admiralty within his Majesty's dominions, to take cognizance of, and judicially proceed upon all and all manner of captures, seizures, prizes, and reprisals of all ships or goods that are or shall be taken, and to hear and determine the same; and according to the course of Admiralty, and the laws of nations, to adjudge and condemn all such ships, vessels, and goods as shall belong to Spain, or the vassals and subjects of the King of Spain, or to any others inhabiting within any of his countries, territories, and dominions, and that such powers and clauses be inserted in the said Commission as have been usual, and are according to former precedents; and they are likewise to prepare and lay before his Majesty at this board, a draught of such instructions as may be proper to be sent to the Courts of Admiralty in his Majesty's foreign governments and plantations for their guidance herein, as also another draught of instructions for such ships as shall be commissioned for the purposes aforementioned.

Copy of his Majesty's Commission of 2d of May 1776, to the High Admiral of Great Britain, &c. and the Commissioners for executing the office of High Admiral, authorising and enjoining them to will and require the High Court of Admiralty of England, and the several Courts of Admiralty within the King's Dominions, judicially to proceed upon all captures, &c. belonging to the inhabitants of the Rebellious Colonies, and other vessels liable to confiscation, in pursuance of the Act of the 16th of George the Third, by which all manner of trade and commerce is prohibited with the Colonies of New Hampshire, Massachusetts Bay, Rhode Island, &c. during the continuance of the Rebellion within the said Colonies respectively.

GEORGE

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, &c. To our High Admiral of Great Britain and Ireland, and dominions thereunto belonging, for the time being, and to our right trusty and right well beloved Cousin and Counsellor John Earl of Sandwich, our trusty and well beloved John Buller, Esq; our right trusty and well beloved Cousin Henry Lord Viscount Palmerston, of our kingdom of Ireland, our right and well beloved Counsellor Charles Spencer, Esq. commonly called Lord Charles Spencer, our right trusty and well beloved Cousin Wilmot, Lord Viscount Lisburne of our said kingdom of Ireland, and our trusty and well beloved Henry Penton, Esq; and Sir Hugh Palliser, Baronet, our Commissioners for executing the office of our High Admiral of Great Britain and Ireland, and dominions thereunto belonging, and to our Commissioners for executing that office for the time being, greeting: Whereas by an Act passed in this present Session of Parliament, all manner of trade and commerce is prohibited with the Colonies of New Hampshire, Massachusetts's Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower Counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the continuance of the present Rebellion within the said Colonies respectively; and that all ships and vessels of or belonging to the inhabitants of the said Colonies, together with their cargoes, apparel, and furniture, which shall be found trading in any port or place of the said Colonies, or going to trade or coming from trading in any such port or place, shall be forfeited to us, as if they were the ships and effects
of

of open enemies, and shall be so adjudged, deemed, and taken in all Courts of Admiralty, and in all other Courts whatsoever. These are therefore to authorise, and we do hereby authorise and enjoin you our High Admiral of Great Britain and Ireland, and dominions thereunto belonging, for the time being, and you our said Commissioners for executing the office of our High Admiral of Great Britain and Ireland, and dominions thereunto belonging, and the Commissioners for executing the said office for the time being, or any three or more of you, to will and require our High Court of Admiralty of England, and the Lieutenant and Judge of the said Court, and his Surrogate or Surrogates, as also the several Courts of Admiralty within our dominions; and they are hereby authorised and required to take cognizance of, and judicially to proceed upon all and all manner of seizures, forfeitures, captures, recaptures, prizes, and reprisals, of all ships and goods already seized and taken, or which shall hereafter be seized and taken, to hear and determine the same according to the course of Admiralty, and to adjudge and condemn all such ships, vessels, and goods, their tackle, apparel, and furniture, as belong to the inhabitants of the said Rebellious Colonies; and also such other ships, vessels, and goods, as are or shall be liable to confiscation by the several statute laws of the realm, or pursuant to the respective treaties between us and other Princes, States, and Potentates, or the law and usage of nations. In witness whereof, we have caused these our Letters to be made Patent. Witness ourself at Westminster, the second day of May, in the sixteenth year of our reign.

By the King himself,
YORKE.

his foreign governments and plantations, for their guidance, we do, in pursuance of his Majesty's said order in Council, herewith send a copy of the said Interrogatories to the Vice-Admiralty Court of the Province of Georgia, and the Vice-Admiral, or his Deputy or Judge of the said Court, or his Deputy now and for the time being, for their guidance accordingly; and do hereby will and require them to cause the same to be duly administered to the persons for whom they are intended as aforesaid; for doing of all which this shall be their sufficient warrant. Given under our hands, and the seal of the office of Admiralty, the 28th of April 1779.

LISBURNE.
W. PENTON.
R. MAN.

To the Vice-Admiralty Court of
the Province of Georgia, and
the Vice-Admiral, or his De-
puty or Judge of the said
Court, or his Deputy now and
for the time being.

By Command of their Lordships,

PHILIP STEPHENS.

*Copy of Standing INTERROGATORIES transmitted by
the Admiralty in England, together with the above
Warrant.*

Standing Interrogatories to be administered in
behalf of our Sovereign Lord George the Third,
by the Grace of God, of Great Britain, France,
and Ireland, King, Defender of the Faith, to
all commanders, masters, officers, mariners, and
other persons found on board any ship or vessel
which hath been or shall be seized, or taken as
prize

prize by any of his Majesty's ships or vessels of war, concerning such captured ships, vessels, or any goods, wares, and merchandises on board the same; and to such other persons who shall be brought to be examined as witnesses in preparatory, in consequence of an Act passed in the present Session of Parliament, prohibiting all trade and commerce with the Colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three Lower Counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the continuance of the present Rebellion within the said Colonies.

Let each witness be interrogated to every of the following questions, and their answer to each severally written down.

1. Where were you born, and where have you lived for these seven years last past? where do you now live, and how long have you lived in that place? to what Prince or State, or to whom are you, or have ever been a subject, and of what cities or towns have you been admitted a burgher or freeman, and at what time were you so admitted?

2. Interrogate, Were you present at the time of taking and seizing the ship or her lading, or any of the goods or merchandises concerning which you are now examined? if not, how and when were you first made acquainted therewith? and had the ship, concerning which you are now examined, any commission, what, and from whom?

3. Interrogate, In what place, latitude, or port, and in what year, month, and day, were the ship
and

and goods concerning which you are now examined, taken and seized, upon what pretence, and for what reasons were they seized, into what place or port were they carried, and under what colours did the said ship sail? was any resistance made at the time when the said ship was taken? and if yea; how many guns were fired, and by whom and by what ship or ships were you taken? was such vessel a ship of war, or a vessel acting without any commission, as you believe?

4. Interrogate, What is the name of the master or commander of the ship or vessel taken? how long have you known the said master, and who appointed him to the command of the said ship? where did such master take possession of her, and what was the name of the person who delivered the possession to the said master? where doth he live? where is the said master's fixed place of abode? if he has no fixed place of abode, then let him be asked where was his last place of abode, and where doth he generally reside? how long has he lived there? where was he born, and of whom is he now a subject? is he married? if yea, where doth his wife and family reside?

5. Interrogate, Of what tonnage or burthen is the ship which has been taken? what was the number of the mariners, and of what country were the said seamen or mariners? did they all come on board at the same port, or different ports, and who shipped or hired them, and when and where?

6. Interrogate, Had you, or any of the officers or mariners belonging to the ship concerning which you are now examined, any and what part, share, or interest in the said ship, or in any of her lading? if yea, set forth who and what goods or interest you or they have? did you belong to the

said ship or vessel at the time she was seized and taken? in what capacity did you belong to her? how long have you known her? when and where did you first see her, and where was she built?

7. Interrogate, What is the name of the said ship? how long has she been so called? do you know of any other name or names by which she hath been called? if yea, what were they? had she any passport or sea-brief on board, and from whom? to what ports and places did she sail during her said voyage, before she was taken? where did her last voyage begin, and where was the said voyage to have ended? Set forth the quality of every cargo the ship has carried to the time of her capture, and what port such cargoes have been delivered at.

8. Interrogate, What lading did the said ship carry, at the time of her first setting sail in her last voyage, and what particular sort of lading and goods had she on board at the time she was taken? in what year, and in what month, was the same put on board? Set forth the different species of the lading, and the quantities of each sort.

9. Interrogate, Who were the owners of the ship or vessel concerning which you are now examined, at the time she was seized? how do you know that they were the owners of the said ship at that time? of what nation or country were such owners by birth, where do they reside, and where do their wives and families reside? to whom are they subject?

10. Interrogate, Was any bill of sale made to the aforesaid owners of the said ship; and if any such was made, in what month and year? where, and in the presence of what witnesses was such bill of sale made? where did you last see it? and what is become of it?

11. Interrogate, Was the said lading put on board in one port, and at one time; or at several ports, and at several times; and at what ports by name? Set forth what quantities of each sort of goods were shipped at each port.

12. Interrogate, What are the names of the respective laders, or owners, or consignees of the said goods? what countrymen are they? where do they now live and carry on their business or trade, and where were the said goods to be delivered, and for whose real account, risk, or benefit? can you take upon yourself to swear, that you believe that at the time of the lading the cargo, and at this present time, and also if the goods shall be restored and unladen at the destined port, the goods did, do, and will belong to the same persons, and to none others?

13. Interrogate, How many bills of lading were signed for the goods seized on board the ship? were any of those bills of lading false or colourable, or were any bills of lading signed which were different in any respect from those which were on board the ship the time she was taken? what were the contents of such other bills of lading, and what became of them?

14. Interrogate, Are there in Great Britain any bills of lading, invoices, letters, or instruments relative to the ship or goods concerning which you are now examined? if yea, set forth where they are, and in whose possession, and what is the purport thereof, and when were they brought or sent to this kingdom?

15. Interrogate, Was there any charter-party signed for the voyage in which the ship concerning which you are now examined was seized and taken? and what became thereof? when, where,
and

and between whom was such charter-party made, and what were the contents of it?

16. Interrogate, What papers, bills of lading, letters, or other writings, were on board the ship the time she took her departure from the last clearing port before her being taken as prize? were any of them burnt, torn, thrown overboard, destroyed, or cancelled, concealed, or attempted to be concealed, and when and by whom? and who was then present?

17. Interrogate, Has the ship concerning which you are now examined been at any time, and when, seized as prize, and condemned as such? if yea, set forth into what port she was carried, and by whom, or by what authority, and on what account she was condemned?

18. Interrogate, Have you sustained any loss by the seizing and taking the said ship concerning which you are examined? if yea, in what manner do you compute such your loss? have you already received any indemnity, satisfaction, or promise of satisfaction, for any part of the damage which you have or may sustain by this capture and detention, and when and from whom?

19. Interrogate, Is the said ship or goods, or any, and what part insured? if yea, for what voyage is such insurance made, and at what premium, and when, and by what persons, and in what country, was such insurance made?

20. Interrogate, In case you had arrived at your destined port, would your cargo, or any part thereof, on being unladen, have immediately become the property of the consignee, or any other person, and whom? or was the lader to take the chance of the market for the sale of his goods?

In case of recapture of ship and goods, or of recapture of a hostage and ransom bill for British ship and goods, or foreign ship in his Majesty's service, besides the above interrogatories,

21. Interrogate every witness precisely as to the true place and circumstances of the capture and recapture, so that it may appear with certainty what number of hours the prize or hostage and ransom bill were in the custody of the enemy, and their treatment of the hostages; and particularly where a hostage is retaken, let him be examined fully as to every circumstance of the capture and recapture.

And in case of a ransom, besides the above interrogatories,

22. Interrogate the hostages particularly into the reasons and conditions of the ransom, and be very circumspect as to the number of prisoners which may have been released; the place where the ship was discharged, the quality of her cargo, and the time of her being released, and the necessity for releasing the prisoners.

Copy of a Commission to cruise against all Ships and Vessels belonging to the Thirteen American Colonies.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To all to whom these presents shall come, greeting: Whereas by a statute made and passed in the sixteenth year of our reign, intituled, An Act to prohibit all trade and intercourse with the Colonies of New Hampshire, Massachusetts Bay, Rhode-Island, Connecticut,

necticut, New Jersey, Pennsylvania, the three lower Counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the continuance of the present rebellion within the said Colonies respectively; for repealing an Act made in the fourteenth year of the reign of his present Majesty, to discontinue the landing and discharging, lading or shipping of goods, wares, and merchandize, at the town and within the harbour of Boston, in the Province of Massachusetts Bay; and also two Acts made in the last Session of Parliament, for restraining the trade and commerce of the Colonies, in the said Acts respectively mentioned, and to enable any person or persons appointed and authorized by his Majesty, to grant pardons, to issue proclamations, in the cases and for the purposes therein mentioned (it is amongst other things enacted), That all ships and vessels of, or belonging to the inhabitants of the Colonies, herein above mentioned, together with their cargoes, apparel and furniture, and all other ships and vessels whatsoever, together with their cargoes, apparel and furniture, which shall be found trading in any port or place of the said Colonies, or going to trade, or coming from trading in any such port or place, shall become forfeited to us, as if the same were the ships and effects of open enemies, and shall be so adjudged, deemed, and taken in all Courts of Admiralty, and in all other Courts whatsoever: And whereas, by a certain other statute made and passed in the seventeenth year of our reign, intituled, An Act for enabling the Commissioners for executing the office of Lord High Admiral of Great Britain, to grant Commissions to the Commanders of private ships and vessels employed in trade, or retained in his Majesty's service, to take and make prize of all

ships and vessels, and their cargoes, as are therein mentioned, for a limited time; reciting, as therein it is recited; it is among other things enacted, That the Lord High Admiral of Great Britain, or the Commissioners for executing the office of Lord High Admiral of Great Britain for the time being, or any three or more of them, or any person or persons by him or them empowered and appointed, shall and may, from and after the twentieth day of February one thousand seven hundred and seventy-seven, at the request of any merchant or merchants, being owner or owners of any ship or vessel employed in trade, or retained in his Majesty's service, giving such bail and security as is therein after mentioned and expressed, cause to be issued forth one or more commission or commissions, to any person or persons whom such merchant or merchants shall nominate to be Commander, or in case of death successively, Commanders of such ship or vessel, for the attacking, surprizing, seizing, and taking, by and with such ship or vessel, or with the crew thereof, all ships and vessels, goods, wares, and merchandizes, chattels, and effects whatsoever, belonging to the inhabitants of the said Colonies now in rebellion, and all ships and vessels, with their cargoes, apparel and furniture, belonging to our subjects in Great Britain and Ireland, which shall be found trading to or from the said Colonies, contrary to the provisions of the said Act of Parliament, herein before first above in part recited. And whereas three of our Commissioners for executing the office of Lord High Admiral of Great Britain, by their warrant under their hands, and the seal of the office of Admiralty, bearing date the fourth day of June, in the year of our Lord one thousand seven hundred and seventy-eight,

eight, reciting, as therein it is recited, have duly empowered and appointed our trusty and well-beloved JAMES ROBERTSON, Esq; our Captain-General and Governor in Chief in and over our Province of New-York, and the territories depending thereon in America, Chancellor and Vice-Admiral of the same, to cause to be issued forth, pursuant to the said Act of the seventeenth year of our reign, by warrant under his hand, and the seal of the said Province of New-York, directed to the Judge of the Admiralty of the said Province (such warrant to be made severally from time to time), at the request of any merchant or merchants, being owner or owners of any ship or vessel employed in trade, or retained in our service, one or more commission or commissions to the effect aforesaid; to any person or persons whom such merchant or merchants shall nominate to be Commander; or in case of death, successively Commanders of such ship or vessel, and to cause such bail and security to be taken, as is directed by the said Act; and moreover to cause, that in granting such commissions, all other things be had and done conformable to, and as the said Act requires. And Whereas J—— M—— of the city of New-York, merchant, principal owner of a certain boat or vessel, called the K——, hath made application in writing to our said Captain-General and Governor in Chief, and therein set forth a particular description of the said vessel, specifying the cargo and burthen thereof, the number and nature of the guns on board the same, to what place the said vessel belongs, and on what voyage she is bound, that he is the principal owner thereof, and the number of men tended to be put on board the same, to the herein after at large expressed; and the

quested our said Captain-General and Governor in Chief, to cause a commission to be issued, for the purpose aforesaid, unto J—— K——, whom he hath nominated Commander of the said vessel, and in case of his death, unto R—— D——, and in case also of his death, unto J—— W——, whom, in the order they are herein before mentioned, the said owner hath nominated successively Commanders thereof, in case of death as aforesaid. And whereas our said Captain-General and Governor in Chief, hath thereupon issued his warrant, under his hand and the seal of our said Province of New-York, bearing date the twelfth day of June instant, to Robert Bayard, Esq; Judge of our Court of Vice-Admiralty, for the said Province of New-York directed, willing and requiring the said Judge to cause a commission to be accordingly issued out of the said Court, unto the said J—— K——, and in case of his death, unto the said R—— D——, and in case also of his death, unto the said J—— W——, for the setting forth the said boat or vessel in a warlike manner, with the powers and authorities, and to the intents and purposes in the statute, last above mentioned, directed and expressed. And whereas the said J—— M—— hath given sufficient bail, with sureties to us, in our said Court of Vice-Admiralty for the Province of New-York, pursuant to the said statute, and according to the effect and form set down in our instructions for the better guidance and governance of the Commanders of such ships and vessels, issued under our Royal Signet and Sign Manual, bearing date at St. James's the twenty-seventh day of March one thousand seven hundred and seventy-seven, a copy of which instructions is delivered with these presents to the said J—— K——, at present Commander of the said

said boat or vessel K——. Know ye therefore, That we do, by these presents, grant Commission to, and do license, authorize, and empower the said J—— K——, and in case of his death the said R—— D——, and in case also of his death, the said J—— W——, nominated in the order aforesaid, to be in case of death, successively Commanders thereof, to set forth, in a warlike manner, the said boat or vessel called the K——, the same being a boat employed in trade, laden with ballast, of the burden of ten tons, having on board two guns carrying shot of six pounds weight, two howitzers, and six swivels, belonging to the port of New-York, bound on a voyage to the Island of Bermuda, and intended to be manned with forty men; and by or with such boat or vessel, or the crew thereof, to attack, surprise, seize and take, all ships and vessels, goods, wares, and merchandizes, chattels and effects whatsoever, belonging to the inhabitants of the said Colonies now in rebellion, and all ships and vessels, with their cargoes, apparel, and furniture, belonging to our subjects in Great Britain or Ireland, which shall be found trading to or from the said Colonies, contrary to the provisions of the herein before mentioned statute, made in the sixteenth year of our reign as aforesaid, the same being made liable to seizure by merchant ships employed in trade, or retained in our service, being thereunto commissioned, according to the said statute, made in the seventeenth year of our reign as aforesaid, and to bring the same to such port as shall be most convenient, and to which the same may be lawfully brought, in order to have the same legally adjudged in our High Court of Admiralty of England, or to such other Admiralty Court

as shall be lawfully authorized to hear and determine concerning the same; which being condemned, it shall and may be lawful to and for the said J—— K——, and the said other persons herein before nominated to be successively Commanders, as aforesaid, when they shall respectively, according to the true intent and meaning of these presents, so command the said boat or vessel to sell and dispose of such ships, vessels, and goods so adjudged and condemned, in such sort and manner as, by the course of Admiralty, hath been accustomed, except in such cases where it is otherwise directed by our said instructions: Provided that nothing be done by the said J—— K——, or any of his officers, mariners and company, contrary to the true meaning of our instructions delivered unto him herewith as aforesaid; but that the said instructions, and each and every of them, as far as they, or any of them, are therein concerned, shall, in all particulars, be well and duly performed and observed: and we pray and desire all Kings, Princes, Potentates, States, and Republics, being our friends and allies, and all others to whom it shall appertain, to give the said J—— K—— all aid, assistance, and succour in their ports, with the said boat or vessel, company and prizes, without doing, or suffering to be done to him or them, any wrong, trouble or hindrance, we offering to do the like when we shall be by them thereunto desired; and we will and require all our officers whatsoever, to give him and them succour and assistance as occasion shall require. In Testimony whereof we have caused the Seal of our Court of Vice-Admiralty for our said Province of New-York to be hereunto affixed. Witness our trusty and well-beloved Robert Bayard, Esq; Judge of our Court of Vice-Admiralty for our said Province

Province of New-York, at the city of New-York
in our said Province, the twelfth day of June, in
the twenty-second year of our reign.

ROBT. BAYARD.

By order of his Honour the
Judge,
D. MATTHEWS, Reg,

L. S.

I do hereby certify that the above is a true
copy of my Commission, and I do authorise
W—— G——, prize-master, to take charge of
the schooner America, laden with tobacco, taken
near the mouth of Rappahannock, in the State of
Virginia, bound to H——, to proceed to New-
York as quick as possible, and deliver her up to
J—— M—— agent.

(Signed) J—— K——, Commander
of the K—— privateer
barge.

July 31st 1782.

GEORGE R.

L. S.

INSTRUCTIONS for the Commanders
of such Merchant Ships or Vessels,
who shall have Letters of Marque
and Reprisals for private Men of
War, against the French King, his
Vassals and Subjects, or others in-
habiting within any of his countries,
territories, or dominions, by virtue
of our Commission granted under our
Great Seal of Great Britain, bear-
ing date the fifth day of August
1778. Given at our Court at St.
James's, the fifth day of August
1778, in the eighteenth year of our
reign.

Art.

ART. 1. THAT it shall be lawful for the Commanders of ships, authorized by Letters of Marque and Reprisals, for private men of war, to set upon by force of arms, and subdue and take the men of war, ships and vessels, goods, wares, and merchandizes of the French King, his vassals and subjects, and others inhabiting within any of his countries, territories, and dominions; but so as that no hostility be committed, nor prize attacked, seized, or taken, within the harbours of Princes and States in amity with us, or in their rivers or roads within the shot of their cannon, unless by permission of such Princes or States, or of their Commanders or Governors in Chief in such places.

ART. 2. That the Commanders of ships and vessels so authorized as aforesaid, shall bring all ships, vessels, and goods which they shall seize and take, into such port of this our realm of England, or some other port of our dominions not in rebellion, as shall be most convenient for them, in order to have the same legally adjudged in our High Court of Admiralty of England, or before the Judges of any other Admiralty Court lawfully authorized, within our dominions.

ART. 3. That after such ships, vessels and goods, shall be taken and brought into any port, the taker, or one of his chief officers, or some other person present at the capture, shall be obliged to bring or send, as soon as possibly may be, three or four of the principal of the company (whereof the master, mate, or boatswain to be always two), of every ship or vessel so brought into port, before the Judge of our High Court of Admiralty of England, or his Surrogate, or before the Judges of such other Admiralty Court within our dominions, lawfully authorized as aforesaid, or such

as shall be lawfully commissioned in that behalf, to be sworn and examined upon such interrogatories as shall tend to the discovery of the truth, concerning the interest or property of such ship or ships, vessel or vessels, and of the goods, merchandizes, or other effects found therein; and the taker shall be farther obliged, at the time he produceth the company to be examined, and before any monition shall be issued, to bring and deliver into the hands of the Judge of the High Court of Admiralty of England, his Surrogate, or the Judge of such other Admiralty Court within our dominions, lawfully authorised, or others commissioned as aforesaid, all such papers, passes, sea-briefs, charter-parties, bills of lading, cockets, letters, and other documents and writings as shall be delivered up, or found on board any ship; the taker, or one of his chief officers, or some other person who was present at the capture, and saw the said papers and writings delivered up, or otherwise found on board at the time of the capture, making oath, that the said papers and writings are brought and delivered in as they were received and taken, without any fraud, addition, subduction, or embezzlement, or otherwise to account for the same upon oath, to the satisfaction of the Court.

Art. 4. That the ships, vessels, goods, wares, merchandizes, and effects, taken by virtue of letters of marque and reprisals as aforesaid, shall be kept and preserved, and no part of them shall be sold, spoiled, wasted, or diminished, and that the bulk thereof shall not be broken, before judgment be given in the High Court of Admiralty of England, or some other Court of Admiralty lawfully authorized in that behalf, that the ships, goods and merchandizes are lawful prize.

Art. 5. That if any ship or vessel belonging to us, or our subjects, shall be found in distress, by being in sight set upon, or taken by the enemy, or by reason of any other accident, the Commanders, Officers, and Company of such merchant ships or vessels, as shall have letters of marque and reprisals as aforesaid, shall use their best endeavours, and give aid and succour to all such ship and ships, and shall, to the utmost of their power, labour to free the same from the enemy, or any other distress.

Art. 6. That the Commanders or Owners of such ships and vessels, before the taking out letters of marque and reprisals, shall make application in writing, subscribed with their hands to our High Admiral of Great Britain, or our Commissioners for executing that office for the time being, or the Lieutenant or Judge of the said High Court of Admiralty, or his Surrogate, and shall therein set forth a particular, true, and exact description of the said ship or vessel for which such letter of marque and reprisal is requested, specifying the burthen of such ship or vessel, and the number and nature of the guns, and what other warlike furniture and ammunition are on board the same, to what place the ship belongs, and the name or names of the principal owner or owners of such ship and vessel, and the number of men intended to be put on board the same, and for what time they are victualled, also the names of the Commander and Officers.

Art. 7. That the Commanders of ships and vessels having letters of marque and reprisals, as aforesaid, shall hold and keep, and are hereby enjoined to hold and keep, a correspondence, by all conveniencies, and upon all occasions, with our High Admiral of Great Britain, or our Commissioners

missioners for executing that office for the time being, or their Secretary, so as from time to time to render and give him or them, not only an account or intelligence of their captures and proceedings, by virtue of such commissions, but also of whatsoever else shall occur unto them, or be discovered and declared to them, or found out by them, by examination of, or conference with any mariners or passengers of or in the ships or vessels taken, or by any other ways and means whatsoever, touching or concerning the designs of the enemy, or any of their fleets, ships, vessels or parties, and of the stations, sea-ports, and places, and of their intents therein, and of what ships or vessels of the enemy, bound out or home, or where cruising, as they shall hear of, and of what else material in these cases may arrive at their knowledge, to the end such course may be thereupon taken, and such orders given as may be requisite.

Art. 8. That no Commander of any ship or vessel, having a letter of marque and reprisal as aforesaid, shall presume, as they will answer it at their peril, to wear any jack, pennant, or other ensign or colours usually borne by our ships, but that, besides the colours usually borne by merchant ships, they do wear a red jack, with the union jack, described in the canton, at the upper corner thereof, near the staff.

Art. 9. That no Commander of any ship or vessel, having a letter of marque and reprisal as aforesaid, shall ransom, or agree to ransom or quit, or set at liberty, any ship or vessel, or their cargoes, which shall be seized and taken.

Art. 10. That all Captains or Commanding Officers of ships having letters of marque or reprisals, do send an account of, and deliver c

what prisoners shall be taken on board any prizes, to the Commissioners appointed, or to be appointed, for the exchange of prisoners of war, or the persons appointed in the sea-port towns to take charge of prisoners, and that such prisoners be subject only to the orders, regulations, and directions of the said Commissioners, and that no Commander, or other Officer of any ship, having a letter of marque and reprisal as aforesaid, do presume, upon any pretence whatsoever, to ransom any prisoners.

Art. 11. That in case the Commander of any ship, having a letter of marque and reprisal as aforesaid, shall act contrary to these instructions, or any such further instructions of which he shall have due notice, he shall forfeit his commission to all intents and purposes; and shall, together with his bail, be proceeded against according to law, and be condemned in costs and damages.

Art. 12. That all Commanders of ships and vessels having letters of marque and reprisal, shall, by every opportunity, send exact copies of their journals to the Secretary of the Admiralty; and proceed to the condemnation of their prizes, as soon as may be, and without delay.

Art. 13. That Commanders of ships and vessels having letters of marque and reprisal, shall, upon due notice being given to them, observe all such other instructions and orders as we shall think fit to direct from time to time, for the better carrying on this service.

Art. 14. That all persons who shall violate these or any other of our Instructions, shall be severely punished, and also required to make full reparation to persons injured contrary to our Instructions, for all damages they shall sustain by

any capture, embezzlement, demurrage, or otherwise.

Art. 15. That before any Letter of Marque and Reprisals for the purpose aforesaid shall issue under Seal, bail shall be given, with sureties before the Lieutenant and Judge of our High Court of Admiralty of England, or his Surrogate; in the sum of three thousand pounds Sterling, if the ship carries above one hundred and fifty men; and if a less number, in the sum of fifteen hundred pounds Sterling; which bail shall be to the effect, and in the form following:

“ WHICH day, time, and place, personally appeared A. B. &c.

and C. D. &c.

who submitting themselves to the jurisdiction of the High Court of Admiralty of England, obliged themselves, their heirs, executors, and administrators, in the sum of pounds, of lawful money of Great Britain, to this effect: that is to say, That whereas E. F. &c,

is duly authorised by Letters of Marque and Reprisals with the ship called the G—— of the burden of about tons, whereof he the said E. F. goeth Master, by force of arms to attack, surprise, seize, and take all ships and vessels, goods, wares, and merchandises, chattels, and effects belonging to the French king, or to any of his vassals and subjects, or others, inhabiting within a of his countries, territories, or dominions soever, excepting only within the roads within shot of the cannon of

A a

States in amity with his Majesty: And whereas he the said E. F. hath a copy of certain instructions approved of, and passed by his Majesty in Council, as by the tenor of the said Letters of Marque and Reprisals, and instructions thereto relating, more at large appeareth. If therefore nothing be done by the said E. F. or any of his Officers, Mariners, or Company, contrary to the true meaning of the said Instructions, and of all other Instructions which may be issued in like manner hereafter, and whereof due notice shall be given him; but that the Letters of Marque and Reprisals aforesaid, and the said Instructions shall, in all particulars, be well and duly observed and performed, as far as they shall the said ship, Master, and Company any way concern; and if they shall give full satisfaction for any damage or injury which shall be done by them, or any of them, to any of his Majesty's subjects, or of foreign States in amity with his Majesty, and also shall duly and truly pay, or cause to be paid to his Majesty, or the Customers or Officers appointed to receive the same for his Majesty, the usual customs due to his Majesty, of and for all ships and goods so as aforesaid taken and adjudged for prize: and moreover, if the said E. F. shall not take any ship or vessel, or any goods or merchandises belonging to the enemy, or otherwise liable to confiscation, through consent or clandestinely, or by collusion, by virtue, colour, or pretence of his said Letters of Marque and Reprisals: that then this bail shall be void, and of none effect; and unless they shall so do, they do all hereby severally consent, that execution shall issue forth against them, their
heirs,

heirs, executors, and administrators, goods and chattels, wheresoever the same shall be found, to the value of the sum of pounds before-mentioned: and in testimony of the truth thereof, they have hereunto subscribed their names, &c."

By his Majesty's Command.

WEYMOUTH.

GEORGE R.

L. S.

ADDITIONAL INSTRUCTIONS to such Commanders of private ships and vessels employed in trade, or retained in our service, who shall or may have Commissions, pursuant to an Act of Parliament of the seventeenth year of our reign, for seizing and taking the ships and goods belonging to the inhabitants of the Colonies now in rebellion, as also for such merchant ships who shall have Letters of Marque and Reprisals against the French King, his vassals and subjects, or others, inhabiting within any of his countries, territories, or dominions, by virtue of our Commission, dated the 5th of August, 1778. Given at our Court at St. James's, the 18th day of November, 1778, and in the nineteenth year of our reign.

WHEREAS information has been that several of the seamen belonging ployed in our service have been indu

from the said vessels, and to enter on board privateers by the offer of large bounties, and other advantages, held out to them by the Commanders of such privateers; in consequence of which the said vessels have been detained in port, to the great detriment and distress of our service: for the avoiding such inconvenience for the future: We do hereby strictly charge and enjoin all Commanders of privateers and merchant ships having Letters of Marque, that they do upon no account receive and detain on board their ships any seamen belonging to any of our ships of war, or any other vessels employed in our service, either as transports, store-ships or victuallers; and that if they should, at any time, undesignedly have received any such seamen, they do immediately deliver him up upon application made by, or on behalf of the Captain or Commander of such ship of war, or other ship employed in our service, to which he belonged before he entered on board such privateer or commissioned ship, under pain of our highest displeasure, and such penalty as by law may be inflicted.

By his Majesty's Command.

GEO. GERMAINE.

[The Copies of the Depositions, and of some other of the Vice-Admiralty Precedents which I got at Antigua, were so loose and incorrect, that I found it necessary to alter them in different places to make sense of them; and several ungrammatical and other inaccurate expressions which were in the manuscript yet remain, from my overlooking them in the proof-sheets. I am also to apologize to the Purchaser, for my inattention

tion in lengthening the Proceedings in the Cause of the Schooner Poisson Volant, by suffering the Depositions of three Witnesses of the same purport to stand in the manuscript, when the insertion of one of these Depositions would have answered the purpose. However, with all their imperfections, those Antigua Precedents may have their use, as there are no other Vice-Admiralty forms in print.]

2dly, The Court of Vice-Admiralty in the Colonies has a concurrent jurisdiction with the Courts of Record there, in the case of forfeitures and penalties incurred by the breach of any Act of Parliament relating to the trade and revenues of the British Colonies in America; for the Informer or Prosecutor hath the election of proceeding either in any Court of Record in the Colonies where such offence is committed, or in the Court of Vice-Admiralty there, for the recovery of such penalties and forfeitures.

By the 4 Geo. III. c. 15. s. 41. it is enacted, That all the penalties and forfeitures inflicted by that or any other Act or Acts of Parliament, relating to the trade and revenues of the said British Colonies or Plantations in America, which shall be incurred there, shall and may be prosecuted, sued for, and recovered in any Court of Record, or in any Court of Admiralty in the said Colonies or Plantations where such offence shall be committed, or in any Court of Vice-Admiralty which may or shall be appointed over all America (which Court of Admiralty or Vice-Admiralty are hereby respectively authorised and required to proceed, hear, and determine the election of the Informer or Prosec

And by s. 42. it is enacted, That all penalties and forfeitures so recovered there, under that or any former Act of Parliament, shall be divided, paid, and applied as follows : that is to say, after deducting the charges of prosecution from the gross produce thereof, one-third part of the nett produce shall be paid into the hands of the Collector of his Majesty's Customs at the port or place where such penalties or forfeitures shall be recovered, for the use of his Majesty, his heirs and successors; one-third part to the Governor or Commander in Chief of the said Colony or Plantation; and the other third part to the person who shall seize, inform, and sue for the same, excepting such seizures as shall be made at sea by the Commanders or Officers of his Majesty's ships or vessels of war duly authorised to make seizures; one moiety of which seizures, and of the penalties and forfeitures recovered thereon, first deducting the charges of prosecution from the gross produce thereof, shall be paid as aforesaid to the Collector of his Majesty's Customs, to and for the use of his Majesty, his heirs and successors, and the other moiety to him or them who shall seize, inform, and sue for the same : any law, custom, or usage to the contrary, notwithstanding; subject nevertheless to such distribution of the produce of the seizures so made at sea, as well with regard to the moiety herein before granted to his Majesty, his heirs and successors, as with regard to the other moiety given to the Seizor or Prosecutor, as his Majesty, his heirs and successors shall think fit to order and direct by any * order or orders of Coun-

* On the 12th of October 1764, an order of Council was made for the distribution of his Majesty's share of seizures amongst the Captors, in the proportions therein set forth.

cil, or by any Proclamation or Proclamations to be made for that purpose.

And in s. 46. of the same Act, it is enacted, That in case any information shall be commenced and brought to trial in America, on account of any seizure of any ship or goods as forfeited by this or any other Act of Parliament relating to his Majesty's customs, wherein a verdict or sentence shall be given for the Claimer thereof, and it shall appear to the Judge or Court before whom the same shall be tried, that there was a probable cause of seizure, the Judge or Court before whom the same shall be tried, shall * certify on the Record or other proceedings, that there was a probable cause for the Prosecutor's seizing the said ship or goods; and in such case the Defendant shall not be intitled to any costs of suit whatsoever; nor shall the persons who seized the said ship or goods be liable to any action, or other suit or prosecution on account of such seizure; and in case any action, or other suit or prosecution shall be commenced and brought to trial against any person or persons whatsoever, on account of the seizing any such ship or goods, where no information shall be commenced or brought to trial to condemn the same, and a verdict or sentence shall be given upon such action or prosecution against the Defendant or Defendants, if the Court or Judge before whom such action or prosecution shall certify in like manner as aforesaid, that there was a probable cause for such seizure, then the Plaintiff, besides his ship or goods so seized, or the value thereof, shall not be entitled to above twopence damages, nor to any costs of suit; nor

† By a decision of the Court of King's Bench in England, this Certificate may be made at any time.

shall the Defendant, in such prosecution, be fined above one shilling.

And by the 47th section of the same Act, it is enacted, That if any action or suit shall be commenced either in Great Britain or America, against any person or persons for any thing done in pursuance of this or any other Act of Parliament relating to his Majesty's Customs. the Defendant or Defendants in such action or suit may plead the general issue, and give the said Acts, and the special matter in evidence at any trial to be had thereupon; and that the same was done in pursuance and by the authority of such Act; and if it shall appear so to have been done, the Jury shall find for the Defendant or Defendants; and if the Plaintiff shall be non-suited, or discontinue his action after the Defendant or Defendants shall have appeared, or if judgment shall be given upon verdict or demurrer against the Plaintiff, the Defendant or Defendants shall recover treble costs, and have the like remedy for the same as Defendants have in other cases by Law. By 8 Geo. III. c. 22, all forfeitures and penalties inflicted by any Acts relating to the trade or revenues of the British Colonies in America, may be sued for and recovered in any Court of Vice-Admiralty, having jurisdiction within the Colony or place where the cause of suit shall have arisen; and either party may appeal from such determination to any Court of Vice-Admiralty appointed to hear and determine such Appeals.

In prosecutions in the Court of Vice-Admiralty in the Colonies for the breach of any Act of Parliament relating to the trade and revenues of the Colonies, all questions, as well of fact as of law, are decided by the Judge alone, without the intervention of a Jury; for such was the inclination

of

of the Colonists in many Provinces to carry on a contraband trade, that, to try the fact of an information by a Jury would be almost equivalent to the repealing the Act of Parliament on which such information was grounded. In other respects, I apprehend the proceedings should be conducted, as near as may be, to the practice of the Court of Exchequer in England; and those who have acted otherwise have committed strange mistakes. Some years ago, the Judge of the Court of Vice-Admiralty in a Colony on the Continent demanded *ex officio* from, and administered the Oath of Calumny to an Officer of the Customs there, who prosecuted in that Court for a seizure, under the Laws of Trade; which surpris'd me the more, as that Judge was bred to the law.

FORM of an INFORMATION in a Court of Vice-Admiralty in the Colonies, in the Case of a Vessel and Cargo seized for a Breach of the Acts of Trade.

A—, in the Court of } Before the Honourable
Vice-Admiralty. } W. M. Esq; Judge of
his Majesty's Court of
Vice-Admiralty, held
for the Island of A—.

BE it remembered, that F. G. Esq; Master and Commander of his Majesty's sloop of war the Merlin (being a person duly and legally authorised and impowered to make seizures, and to inform against and prosecute the same), wh well for our Sovereign Lord the King a self, prosecutes, comes into this Court the 21st day of March, in the year of our Lord 1761, in his proper person, and as well

Lord the King as for himself, gives this Court to understand and be informed, that between the 1st day of the month of December last past, and the day of exhibiting this Information, he the said F. G. on the high seas, and within the jurisdiction of this Court, did seize and arrest the schooner or vessel called the Queen of Stars (whereof J. B. D. was Master), with her apparel and furniture, and the goods, wares, and merchandises on board her, being the goods, wares, and merchandises of merchants unknown; for this, to wit, that the said goods, wares, and merchandises were between the said 1st day of the month of December last past and the day of exhibiting this Information exported in the said schooner or vessel out of some Colony or Plantation in America, then and now belonging to, and in the possession of our present Sovereign Lord the King by way of merchandise, the aforesaid schooner or vessel at the aforesaid time of the exportation of the said goods, wares, and merchandises, not being a schooner or vessel wholly owned by the people of Great Britain, or of the Dominions and Plantations thereunto belonging, or any of them, and navigated with the Master and three-fourths of the mariners of the said places only against the form of the Statute in such case made and provided: Wherefore the said F. G. as well for our said Sovereign Lord the King as for himself, prays the advice of this Court in the premises and due process against the said schooner or vessel; and that the said schooner or vessel, with her apparel and furniture, and the goods, wares, and merchandises aforesaid, for the causes aforesaid, may, by the definitive sentence of this Court, remain and be adjudged, forfeited, and may be divided in such manner as is directed by the late Statute

made in the fourth year of his said present Majesty's reign with regard to seizures made at sea by the Commanders or Officers of his Majesty's ships or vessels of war duly authorised to make seizures; subject nevertheless to such distribution as is directed by his said present Majesty's order in Council, made the 12th day of October, in the year of our Lord 1764: and the said F. G. further giveth this Court to understand and be informed, That between the 1st day of the month of December last past and the day of exhibiting this Information, he the said F. G. on the high seas, and within the jurisdiction of this Court, did seize and arrest the said schooner or vessel called the Queen of Stars, with her apparel and furniture, and the goods, wares, and merchandises on board her, being the goods, wares, and merchandises of merchants unknown; for this, to wit, that the said schooner or vessel between the said 1st day of December last past, and the day of exhibiting this Information, did load certain goods, wares, and merchandises in one of his Majesty's Plantations in America, before the Master or person having a charge of the said schooner or vessel did make such oath or affirmation before the Governor or Collector of the Customs of such his Majesty's Plantation in America where the said schooner or vessel did arrive, as is directed in and by a certain Statute made in the fifteenth and sixteenth years of the reign of his late Majesty King George the Second; whereupon the said schooner or vessel became forfeited and lost, as if she had not been registered in pursuance of a certain Act of Parliament made in the seventh and eighth years of the reign of King William the Third: Wherefore the said F. G. as well for our said Sover

King as for himself, prays the advice of this Court in the premises and due process against the said schooner or vessel, and that the said schooner or vessel, with her apparel and furniture, for the cause last aforesaid, may, by the definitive sentence of this Court, remain and be adjudged, forfeited, and may be divided in such manner as is directed by the said late Statute made in the fourth year of his present Majesty's reign, with regard to seizures made at sea by the Commanders or Officers of his Majesty's ships or vessels duly authorised to make seizures; subject nevertheless to such distribution as is directed by his said present Majesty's order in Council, made the 12th day of October, in the year of our Lord 1764; and the said F. G. further giveth this Court to understand, and be informed, that between the 1st day of the month of December last past and the day of exhibiting this Information, he the said F. G. on the high seas, and within the jurisdiction of this Court, did seize and arrest divers goods, wares, and merchandises on board the said schooner or vessel, being the goods, wares, and merchandises of merchants unknown; for this, to wit, that between the said 1st day of December last past and the day of exhibiting this Information, the said goods, wares, and merchandises were shipped and laden on board the said schooner or vessel in one of the British Colonies or Plantations in America, to be carried from thence to some other British Colony or Plantation, without a sufferance or warrant, first had and obtained from the Collector, or other proper Officer of the Customs at the port or place where such goods were put on board; and for that the Master of the said schooner or vessel did not, before the same were removed or carried out from the port or place where he took in his lading,

lading, take out a cocket or cockets expressing the quantity and quality of the goods and marks of the package so laden, with the merchants names, by whom shipped, and to whom consigned, against the form of the Statute in such case made and provided; wherefore the said F. G. as well for our said Sovereign Lord the King as for himself, prays the advice of this Court in the premises, and due process against the said last mentioned goods, wares, and merchandises; and that the said goods, wares, and merchandises, for the causes last aforesaid, may, by the definitive sentence of this Court, remain and be adjudged, forfeited, and may be distributed in such manner as is directed by the said late Statute made in the fourth year of his present Majesty's reign, with regard to seizures made at sea by the Commanders or Officers of his Majesty's ships or vessels duly authorized to make seizures; subject nevertheless to such distribution as is directed by his said present Majesty's order in Council, made the 12th day of October, in the year of our Lord 1764.

Another FORM of an INFORMATION.

St. C——, in the Court	}	Before the Honourable
of Vice-Admiralty.		J—— K——, Esq;
		Judge of his Ma-
		jesty's Court of Vice-
		Admiralty held for
		the Island of St. C——.

BE it remembered, that F. G. Esq; Master and Commander of his Majesty's sloop of war the *Lin* (being a person duly and legally authorized to make seizures, and to prosecute the same), who

for our Sovereign Lord the King as for himself, prosecutes, comes into this Court on this day of April, in the year of our Lord 1765, in his proper person, and as well for our said Lord the King as for himself, gives this Court to understand and be informed, that between the 1st day of August last past, and the day of exhibiting this Information, he the said F. G. on the high seas, and within the Jurisdiction of this Court, did seize and arrest the sloop or vessel called the Catherine (whereof A. G. was Master), with her apparel and furniture, and the goods, wares, and merchandises on board her, being the goods, wares, and merchandises of merchants unknown; for this, to wit, That the said sloop or vessel, between the said 1st day of August last past, and the day of exhibiting this Information, did load certain goods, wares, and merchandises in one of his Majesty's Plantations in America, before the master or person having charge of the said sloop or vessel did make such oath or affirmation, before the Governor or Collector of the Customs of such his Majesty's Plantations in America, where the said sloop or Vessel did arrive, as is directed in and by a certain Statute made in the 15th and 16th years of the reign of his late Majesty King George the Second; whereupon the said sloop or vessel became forfeited and lost, as if she had not been registered, in pursuance of a certain Act of Parliament made in the 7th and 8th years of the reign of King William the Third: Wherefore the said F. G. as well for our said Sovereign Lord the King as for himself, prays the advice of this Court in the premises and due process against the said sloop or vessel; and that the said sloop or vessel, with her apparel and furniture, for the cause aforesaid, may, by the definitive

finitive sentence of this Court, remain and be adjudged forfeited, and may be divided in such manner as is directed by the said late Statute made in the fourth year of his present Majesty's reign with regard to seizures made at sea by the Commanders or Officers of his Majesty's ships or vessels, duly authorised to make seizures; subject nevertheless to such distribution as is directed by his said present Majesty's Order in Council, made the 12th day of October, in the year of our Lord 1764: and the said F. G. further giveth this Court to understand and be informed, That between the 1st day of August last past, and the day of exhibiting this Information, he the said F. G. on the high seas, and within the jurisdiction of this Court, did seize and arrest the said sloop or vessel called the Catherine, with her apparel and furniture, and the goods, wares, and merchandises on board her, being the goods, wares, and merchandises of merchants unknown; for this, to wit, That the said sloop or vessel between the said 1st day of August last past, and the day of exhibiting this Information, did unload certain goods, wares, and merchandises in one of his Majesty's Plantations in America, before the Master or person having charge of the said sloop or vessel did make such oath or affirmation before the Governor or Collector of the Customs of such his Majesty's Plantation in America, where the said sloop or vessel did arrive, as is directed in and by a certain Statute made in the 15th and 16th years of the reign of his late Majesty King George the Second: whereupon the said sloop or vessel became forfeited and lost, as if she had not been registered, in pursuance of a certain Act of Parliament made in the seventh and eighth years of the reign of King William the Third: Wher

fore the said F. G. as well for our said Sovereign Lord the King as for himself, prays the advice of this Court in the premises, and due process against the said sloop or vessel; and that the said sloop or vessel, with her apparel and furniture, for the cause last aforesaid, may, by the definitive sentence of this Court, remain and be adjudged, forfeited, and may be divided in such manner as is directed by the said late Statute made in the fourth year of his present Majesty's reign, with regard to seizures made at sea by the Commanders or Officers of his Majesty's ships or vessels duly authorised to make seizures; subject nevertheless to such distribution as is directed by his said present Majesty's order in Council, made the 12th day of October, in the year of our Lord 1764.

An Appeal lies from the sentence or judgment of this Court in matters relating to the trade or revenues of the Colonies to his Majesty in Council; but, if the matter in question does not exceed the sum or value of 500 l. Sterling, then the party who is desirous of appealing must first prefer a Petition to his Majesty for leave to appeal from such judgment or sentence; and if the prayer of such Petition is granted, then an order of Council is drawn up in the following form:

At



At the Court at St. James's,
the 6th day of September,
1765.

P R E S E N T :

The King's Most Excellent Majesty,

Lord President	Earl of Litchfield
Lord Chamberlain	Earl of Egmont
Duke of Grafton	Earl of Besborough
Marquis of Rockingham	Lord Grantham
Earl of Huntingdon	Mr. Comptroller.

UPON reading at the Board a Report from the Right Honourable the Lords of the Committee of Council for hearing Appeals from the Plantations, dated the 14th of last month, in the words following, *viz.*

“ Your Majesty having been pleased by your
 “ Order in Council of the 1st of this instant, to
 “ refer unto this Committee the humble Petition
 “ of J— P—, of the Island of Antigua, vint-
 “ ner; humbly praying, That he may be admit-
 “ ted to an Appeal from a Sentence given in the
 “ Vice-Admiralty Court of the said Island of
 “ Antigua, on the 22d of February 1765, in
 “ favour of W— A—, Esq; Commander
 “ of your Majesty’s ship the B—, where-
 “ by a small schooner or boat called the Free
 “ Mason, belonging to the Petitioner, was
 “ condemned, for having taken goods, wares,
 “ and merchandises on board before the Master
 “ of her had made such oath or affirmation as is
 “ directed by the Statute; and further praying,
 “ that the Governor of the Leeward Islands may
 “ be permitted to put the Great Seal to the pro-
 “ ceedings upon the said seizure, that the same
 “ may

may be transmitted and brought before your Majesty in Council.—The Lords of the Committee, in obedience to your Majesty's said order of Reference, this day took the said Petition into their consideration, and heard the Petitioner by his Solicitor thereupon, and do agree humbly to report to your Majesty as their opinion, that the Petitioner should be admitted to an Appeal to your Majesty in Council from the said Sentence given in the Vice-Admiralty Court of the Island of Antigua, on the 22d of February 1765, upon entering into the usual security here for prosecuting the same to effect within a year and a day, and abiding the determination of your Majesty in Council thereupon:—and that the Petitioner should be allowed copies of all the proceedings in the said cause, properly authenticated under the Seal of the Leeward Islands, upon paying the usual fees for the same."

His Majesty this day took the said report into consideration, and was pleased, with the advice of his Privy Council, to approve thereof, and to order, as it is hereby ordered, That the said J—P— be admitted to appeal to his Majesty in Council from the said Sentence given in the Vice-Admiralty-Court of the Island of Antigua on the 22d of February 1765, upon entering into the usual security here for prosecuting the same to effect within a year and a day, and abiding the determination of his Majesty in Council thereupon, and paying such costs as shall be awarded by his Majesty in Council, in case the said Appeal be dismissed: and it is hereby further ordered, That the Petitioner be allowed copies of all the proceedings in the said cause, properly authenticated

cated under the Seal of the Leeward Islands, upon paying the usual fees for the same: whereof the Governor or Commander in Chief of his Majesty's Leeward Charibbee Islands for the time being, and all others whom it may concern, are to take notice, and govern themselves accordingly.

W. SHARPE.

Council Chamber, Whitehall,
the 18th day of Sept. 1765.

This day R—— O—— of Gould's Square, merchant; and M—— L—— of the same place, Gentleman, entered into the security required by the above Order.

W. SHARPE.

C H A P. XIV.

The method of authenticating LETTERS of ATTORNEY, and AFEIDAVITS in Great Britain, for the Recovery of Debts in the Colonies in America, with Forms of both sorts.

BEFORE the fifth year of King George the Second, the Legislatures of some Colonies had passed Acts of Assembly to make lands and Negroes there liable to the payment of debts, whilst others refused so to do:—on which several merchants in England that traded to the Colonies preferred a Petition to Parliament, and complained that in Virginia and Jamaica, a privilege was claimed to exempt their houses, lands and tenements, and their negroes also from being extended for debt; and the Lords of Trade represented, that the Assemblies of those Colonies could never be induced to divest themselves of these privileges by any Act of their own. In consequence of this Petition, the Statute of

5 Geo. II. c. 7. intituled, " An Act for the more
" easy recovery of debts in his Majesty's Plantations
" and Colonies in America," was made; by which
it is enacted, That in any action or suit then de-
pending, or thereafter to be brought in any Court
of Law or Equity in any of the said Plantations,
for or relating to any debt or account, wherein
any person residing in Great Britain shall be a
party, it shall and may be lawful to and for the
Plaintiff or Defendant, and also to and for any
witness to be examined or made use of in such
action or suit, to verify or prove any matter or
thing by affidavit or affidavits in writing upon
oath; or in case the person making such affidavit
be one of the people called Quakers, then upon his
or her solemn affirmation, made before any Mayor
or other Chief Magistrate of the city, borough,
or town corporate in Great Britain, where, or
near to which, the person making such affidavit or
affirmation shall reside, and certified and trans-
mitted under the Common Seal of such city, bo-
rough, or town corporate, or the Seal of the Of-
fice of such Mayor, or other Chief Magistrate;
which oath and solemn affirmation, every such
Mayor and Chief Magistrate shall be and is here-
by authorised and impowered to administer; and
every affidavit or affirmation so made, certified,
and transmitted, shall, in all such actions and
suits be allowed to be of the same force and effect,
as if the person or persons making the same upon
oath or solemn affirmation as aforesaid, had ap-
peared and sworn or affirmed the matters contained
in such affidavit or affirmation *viva voce* in open
Court, or upon a Commission issued for the ex-
amination of witnesses, or of any party in any such
action or suit respectively; provided that in every
such affidavit and affirmation there shall be ex-
pressed

pressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

And by sect. 2. of the same Act, it is enacted, That in all suits then depending, or thereafter to be brought in any court of law or equity by or in behalf of his Majesty, his heirs and successors in any of the said Plantations, for or relating to any debt or account, that his Majesty, his heirs and successors, shall and may prove his and their debts and accounts, and examine his or their witnesses or witnesses by affidavit or affirmation, in like manner as any subject or subjects is or are empowered, or may do by this present act.

And by sect. 3. of the same act, it is enacted, That if any person making such Affidavit, upon oath or solemn Affirmation, as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such Affidavit or Affirmation, which if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures, as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.


And by sect. 4. of the same Act, it is enacted, That the houses, lands, negroes, and other hereditaments and real estates, situate or being within any of the said Plantations belonging to any person indebted, shall be liable to and chargeable with all just debts, duties, and demands of what nature or kind soever, owing by any such person to his Majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in

like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings, and process in any Court of Law or Equity, in any of the said Plantations respectively, for seizing, extending, selling, or disposing of any such houses, lands, negroes, and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal estates in any of the said Plantations respectively, are seized, extended, sold or disposed of, for the satisfaction of debts.

A LETTER of ATTORNEY and an AFFIDAVIT certified under the Seal of the City of London, for the purpose of recovering a Debt in one of the Colonies, due to a Person in Great Britain.

TO all to whom these presents shall come, I William Bridgen, Esq; Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the 5th year of the reign of our late Sovereign Lord King George the Second, intituled, An Act for the more easy recovery of debts in his Majesty's Plantations and Colonies in America, do hereby certify, That J—— B—— of Upper Thames-street, London, Clerk to J—— R—— of L——-street, London, Attorney at Law, being a person well known and worthy of good credit, did by solemn oath, which he took upon the Holy Evangelists of Almighty God, solemnly declare, testify, and depose to be true, the several matters and things contained in the Affidavit hereunto annexed.

In



Seal
of
the City of
LONDON.

In Faith and Testimony whereof,
I the said Lord Mayor have
caused the Seal of the Office of
Mayoralty of the said City of
London to be hereunto put and
affixed, and the Bill or Ac-
count, and Deed, Poll, or Let-
ter of Attorney, mentioned in
the said Affidavit, to be also
hereunto annexed. Dated in
London the 15th day of March,
in the 4th year of the Reign
of our Sovereign Lord George
the Third, by the Grace of
God, King of Great Britain,
France and Ireland, Defender
of the Faith, and in the year of
our Lord 1764.

HODGES.

J—— B—— of Upper Thames-street, Lon-
don, Clerk to J—— R—— of L——-street,
London, Attorney at Law, maketh oath, That
the Bill or Account hereunto annexed, signed by
the said J—— R——, is a just and true copy of a
Bill or Account, as entered in the books of the said
J—— R—— by this Deponent: and this Depo-
nent further saith, That he did on the 3d of May,
1762, deliver a copy of the said bill to Mr. J——
Y——, personally, at the house of Mr. W——
L——, Merchant, in Brabant Court, Philpot-
lane, London: and this Deponent further saith,
That he verily believes that the sum of 10*l.* 6*s.* 6*d.*
the amount of the said bill or account is now
justly due and owing from the said J——
Y—— to the said J—— R——: and this
Deponent further saith, That he was present, and
did see the said J—— R—— duly sign, seal,

B b 4

and

and as his act and deed, deliver the Deed, Poll-
or Letter of Attorney hereunto also annexed ;
and that the name J—— B——, thereunto
subscribed as a witness, is the proper hand-writ-
ing of this Deponent ; and that the name W——
E——, thereunto also subscribed as a witness, is
the proper handwriting of the said W——
E——.

Sworn at the Guildhall, J—— B——.
London, the 15th day
of March 1764, be-
fore me,

W. BRIDGEN, Mayor.

* Mr. J—— Y——. D^r. to J—— R——.

1761.

£. s. d.

Aug. 6. Drawing and ingrossing
Power of Attorney from
you to Mess. H——,
and others, of Antigua,
generally to sell estates,
and transact all your af-
fairs, - o 10 6

Drawing and ingrossing Af-
davit of the due execu-
tion thereof before my
Lord Mayor, - o 5 6

Attending at the Mansion
House to swear the same,
and paid swearing o 8 0

Paid for the City Seal o 18 8

Many attendances procu-
ring the same, - o 6 8

28. Drawing and ingrossing Af-
fidavit, proving you to

* It is hoped the Editor will be excused for setting out this
short Bill of Costs, as it contains the expence of the City Seal,
&c. But the stamps are, in some instances, increased since the
year 1762.

Aug. 28.	be the only surviving Guardian of the person and estate of S—— G——, -	o	5	6
Sept. 23.	To your proportion of three sets of Arbitration Bonds between you and Mr. S——; and for my trouble and many at- tendances on you both, and Mr. D——, one of the Arbitrators, to fix him, -	2	2	o
25.	Drawing Affidavit relating to the Privateer Schooner Sally, having lost her masts, &c. in a gale of wind, -	o	5	o
	Copy thereof for Mr. B——'s perusal,	o	2	6
	Ingrossing and stamps	o	4	o
Oct. 24.	Drawing Affidavit for Cap- tain P——, late Master of the True Friend, to prove the capture of the vessel, -	o	5	o
	Fair copy thereof for your and Capt. S——'s per- usal, -	o	2	6
1762.	Ingrossing thereof, and			
Jan. 19.	stamps, -	o	4	o
	Fresh ingrossment of the same, with further proof, and stamps, -	o	4	6
	Letter and Messenger to Mr. R—— S——, threatening to sue him for refusing to settle the			

loss upon a policy under-
wrote by him, upon
which he immediately
settled, - o 6 8

Letter and Messenger to
the Master of the Swan
with Two Necks, about
a parcel left there for Li-
verpool, which was not
forwarded according to
the direction, and advi-
sing you thereon, o 6 8

You having been arrested at
the suit of your Taylor,
attending you at your
lodgings; when I pre-
vailed upon E—— the
officer to discharge you,
upon your depositing in
his hands two Bills of
Exchange as a security;
which he at first objected
to, they being noted for
non-acceptance; but he
at last accepted the same,
upon my assurance to
him that they were
ample security for the
debt - - o 6 8

Attending you taking in-
structions, and advising
relating to W——'s af-
fairs; when you directed
me to proceed against
him, and retain the So-
licitor General, o 6 8

Retaining fee to Mr. Soli-
citor General, - 1 1 0

His Clerk, - o 2 6

Attending him searching
his books, and retaining
him, - - - 0 6 8

HILARY VACATION 1762.

Y——	Warrant to sue	0	1	0
against	} Latitat	0	11	0
W——		Copy and service	0	5
	Letters and Messengers, &c.	0	5	0
	Searching for common bail	0	3	4
		<hr/>		
		10	6	6
		<hr/>		

This is my Bill.

(Signed) J—— R——.

TO all to whom these presents shall come, J—
R——, of L——-street, London, Gentleman,
sendeth greeting: Whereas G. H. of the Island
of Antigua in the West Indies, drew a Bill of
Exchange, dated at Antigua, the 18th day of
April last, upon Mr. J—— M——, Mer-
chant, Lombard-street, London, and thereby di-
rected him at sixty days sight to pay unto Mr.
T—— T—— or order, seventy eight pounds
sixteen shillings and eight pence sterling, for value
received. And whereas the said T—— T——
duly indorsed the same to Mess. H—— and
A——, who directed the contents thereof to
be paid to M—— G——, Esq; or order. And
whereas the said bill has been noted and protested
in due form for non-acceptance and non-pay-
ment thereof, as by the protest or duplicate
thereof may appear. And whereas the said M——
G—— hath, in consideration of the like sum of
78*l.* 16*s.* 8*d.* paid him by the said J—— R——,
duly

duly indorsed the said bill to the said J—— R——. And whereas several persons in the said Island of Antigua also stand indebted to the said J—— R—— in divers sums of money; now know ye, That the said J—— R—— hath made, ordained, authorised, constituted, and appointed, and by these presents doth make, ordain, authorise, constitute, and appoint S—— M——, of Antigua aforesaid, Merchant, and R—— W——, of Antigua aforesaid, Esq; and each of them, his true and lawful Attorney and Attornies for him, and in his name and stead, and to and for his use, to ask, demand, sue for, levy, recover, and receive of and from the drawer of, and the indorsers on the said Bill of Exchange, and every; or any, or either of them, either separately or jointly, as they the said S—— M—— and R—— W——, or either of them shall think proper; and also of and from all and every other person or persons whomsoever, whom the same doth, shall, or may concern, all sum and sums of money whatsoever now due or owing, or that shall or may at any time or times hereafter be due or owing, for or on account of the said Bill of Exchange, or for or on account of any costs, charges or expences, interest or damages due or hereafter to be due, or accrue for the same; and also to ask, demand, compound, sue for, levy, recover, and receive by all lawful ways and means whatsoever, of and from all and every person and persons aforesaid, and all and every other person or persons whomsoever, whom it doth, shall, or may concern, all and every debt and debts, dues, demands, sum and sums of money, and other effects, which now are, or hereafter shall be due, owing, payable, or belonging to him, the said J—— R——, upon, or by
virtue

virtue of any bond, judgment, bill, debt, or upon any other account, or by any other ways or means whatsoever or howsoever; and upon receipt or recovery thereof, or of any part thereof, receipts, acquittances, and other good and sufficient discharges for the same, for and in the name of him the said J—— R——, to make, give, sign, seal, and execute; and generally to do, manage, transact, and perform all such acts, matters, and things whatsoever, in and about the premises, as fully and effectually as he the said J—— R—— might or could do, were he personally present, and did the same himself, hereby ratifying and confirming all and whatsoever the said S—— M—— and R—— W——, or either of them, shall or lawfully may do or cause to be done in and about the premises, by virtue of these presents. In witness whereof, the said J—— R—— hath hereunto set his hand and seal, this 9th day of March, in the year of our Lord 1764, and in the 4th year of the reign of King George the Third.

J—— R——.

Sealed and delivered, being
first duly stampt in the
presence of,

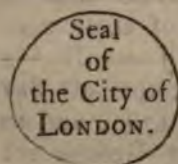
W—— E——.

J—— B——.

*Another LETTER of ATTORNEY and AFFIDAVIT,
certified under the Seal of the City of London.*

TO all to whom these presents shall come, I Sir William Stephenson, Knight, Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the 5th year of the reign of his late Majesty King George the Second,

cond, intituled, An Act for the more easy recovery of debts in his Majesty's Plantations and Colonies in America, do hereby certify, that on the day of the date hereof, personally came and appeared before me J. L. the Deponent named in the Affidavit hereunto annexed, being a person well known and worthy of good credit, and by solemn oath, which the Deponent then took before me, upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed Affidavit.



In Faith and Testimony whereof, I the said Lord Mayor have caused the Seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, and the Letter of Attorney mentioned and referred to in and by the said Affidavit to be hereunto also annexed. Dated in London the 26th day of October, in the year of our Lord 1765.

HODGES.

London to wit.

I. L. Clerk or Book-keeper to J. D. Esq. of London, Merchant, maketh oath and faith, That G. V. of London, Merchant, heretofore Clerk to the said J. D. is now justly and truly indebted unto the said J. D. in the sum of 500*l.* sterling, and upwards, for monies received of sundry persons indebted to the said J. D. and for his account; and for which said sum or any part thereof,

thereof, this Deponent saith, That the said J. D. hath received no security or satisfaction whatsoever, this Deponent giving for reasons of his knowledge and belief in the premises, for that he hath been Clerk or Book-keeper to the said J. D. for the space of five years last past and upwards, been privy to all his dealings and transactions in trade, and that he is very well acquainted with the several persons from whom the said G. V. received the money on account of the said J. D. and that he very well knows the said G. V. hath not accounted with or paid the said J. D. the same or any part thereof: and further this Deponent saith, That he was present and did see the said J. D. (by the name and addition of J. D. Esq; of London, Merchant), sign, seal, and as his act and deed, in due form of law, execute and deliver the original Letter of Attorney hereunto annexed, for the uses, intents, and purposes therein mentioned; and that he this Deponent, and J. K. who was also present at the execution of the said Letter of Attorney, are subscribing witnesses to the same.

J. L.

Sworn the 26th day of October
1765, before me,

W. STEPHENSON, Mayor.

KNOW all men by these presents, That I, J. D. Esq; of London, Merchant, have made, ordained, constituted, and appointed, and by these presents, do make, ordain, constitute, and appoint M. L. and U. L. of the Island of St. Christopher's, Merchants, my true and lawful Attornies; giving and by these presents granting unto my said Attornies, jointly and severally, full power and lawful authority for me the said constituent,

tuent, and in my name and behalf, to seize, attach, sequester, and condemn to my use, all such goods and merchandise as now are or shall hereafter be found in the hands, custody, or possession of any person or persons whatsoever belonging to G. V. of London, Merchant, or such part thereof as will be sufficient to pay and satisfy a debt due and owing to me the constituent from the said G. V. to the amount of 500*l.* sterling, and upwards, and upon receipts, to give one or more acquittances or other sufficient discharges in due form of law; but in case of refusal or delay by any person or persons whom it doth or may concern, to make and render a just and true account, payment, delivery, and satisfaction in the premises, him, them, and every of them, thereunto to compel, and for that purpose to appear before all Lords Judges, and Justices, in any court or courts, there to answer, defend, and reply in all matters and causes touching or concerning the premises, and to do, say, sue, pursue, sequester, attach, imprison, and condemn, and out of prison again to deliver; also, if need be, to compound, compromise, conclude, and agree by arbitration or otherwise; and generally in the premises, to do, perform, transact, and accomplish all and whatever shall be requisite and necessary, as fully and effectually to all intents and purposes as I the said constituent might or could do, being personally present, with power to my said Attornies to substitute one or more person or persons to act under them, and the same at pleasure to revoke; and I the said constituent do hereby promise to ratify and confirm all and whatever my said Attornies jointly or severally, or their or either of their substitutes shall lawfully do or cause to be done in the premises, by virtue of these presents. In
witness

witnefs whereof I have hereunto fet my hand and
feal, the 26th day of October 1765.

J. D. (L. S.)

Sealed and delivered
in the prefence of

J. L.

J. K.

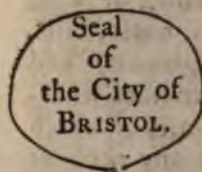
*A Letter of ATTORNEY and AFFIDAVIT, certified
under the Seal of the City of Bristol.*

J— L—, of the City of Bristol, Gentle-
man, maketh oath, That on this 20th day of
August, in the year of our Lord 1763, he, this
Deponent, did fee J— B— of the faid City,
Merchant, fign, feal, and as his act and deed de-
liver the Deed, Poll, or Letter of Attorney
hereto annexed : and this Deponent faith, That the
names J. C— and J— L—, figned as
witneffes to the execution of the faid Letter of
Attorney, are of the proper hands-writing re-
fpectively of J— C— of the faid City,
Gentleman, and him this Deponent.

J— L—.

City and County } To wit.
of Bristol,

To all to whom thefe presents fhall
come, I, John Noble, Efq;
Mayor of the City of Bristol (by
virtue of an Act of Parliament,
paffed in the fifth year of the
reign of his late Majesty King
George the Second, for the more
eafy recovery of debts in his
Majesty's Plantations and Colo-
nies in America), do hereby cer-
tify,



tify, That on the day of the date hereof, the above named J—— L—— appeared personally before me, and made oath on the Holy Evangelists of Almighty God, that the contents of his Affidavit above written were and are true. In testimony whereof, I the said Mayor have hereunto set my hand, and the seal of my office of Mayor, the 20th day of August, in the year of our Lord 1763.

JOHN NOBLE, Mayor.

KNOW all men by these presents, that I, J—— B—— of the City of Bristol, Merchant, have made, ordained, constituted, and appointed, and by these presents do make, ordain, constitute, and appoint R—— N——, of the said City of Bristol, Merchant, my true and lawful Attorney, for me, and in my name, and for my use, to ask, demand, and receive of and from B—— D—— and C—— S——, both of the Island of Antigua in America, Merchants and Copartners, and H—— T——, of the same Island, Merchant; and also of and from all and every person and persons whatsoever, residing in or belonging to the same Island, all and every debt and debts, dues, sum and sums of money, merchandise and effects, and all accounts of sales, accounts current, and other accounts, notes, bills, bonds, warrants for confessing judgments, and other specialties and securities for monies whatsoever, due, owing, or belonging to me, or which I am or may be intitled unto upon any account whatsoever; and to settle, balance, and adjust all accounts

accounts and reckonings touching the premises, and to receive what shall appear to be due or belonging to me, or which I am or may be intitled unto thereon; and to make any composition or agreement for taking less than the whole, and to submit any dispute or disputes to arbitration; and in case of non-payment, non-delivery, or in default of giving a just account, or making satisfaction in the premises to my said Attorney, to make use of and prosecute all such legal methods by action, suit, or otherwise, against the person or estates, whether real or personal, of the said B—, D—, C—, S—, H— T—, or other person or persons aforesaid, their or any of their heirs, executors, administrators, or other representatives, as my said Attorney shall think proper, or be advised; and on receipt, delivery, or satisfaction made in the premises to my said Attorney, to give and execute all proper releases, acquittances, and discharges therefore, and one or more Attorney or Attornies under him from time to time to constitute, and at pleasure to revoke. Giving, and by these presents granting unto my said Attorney and his substitute, my full power in the premises, for the asking, demanding, receiving, settling, adjusting, compounding, referring, suing for, and discharging the same, and doing, signing, sealing, and executing whatsoever may be needful or expedient to be done in or about the premises, as fully and effectually to all intents and purposes as I myself might or could do, if personally present, ratifying and holding firm all and whatsoever my said Attorney or his substitutes shall lawfully do or cause to be done in or about the premises, by virtue hereof; and I do hereby revoke and make void all other powers of Attorney by me hereto-

fore given in respect of the premises. In witness whereof, I have hereunto set my hand and seal, the 20th day of August, in the year of our Lord 1763.

S—— B——. (L. S.)

Sealed and delivered in
the presence of

J. C——.

J—— L——, Notary Public.

*An AFFIDAVIT under the Seal of the City of London,
for the purpose of recovering a Debt in one of the
Colonies.*

TO all to whom these presents shall come, I William Beckford, Esq. Lord Mayor of the City of London, in pursuance of an Act of Parliament, made and passed in the fifth year of the reign of his late Majesty King George the Second, intituled, an Act for the more easy recovery of debts in his Majesty's Plantations and Colonies in America, do hereby certify, That on the day of the date hereof, personally came and appeared before me J—— W——, the Deponent named in the Affidavit hereunto annexed, being a person well known, and worthy of good credit, and by solemn oath, which the said Deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed affidavit.

Seal
of
the City of
LONDON

In Faith and Testimony whereof,
I the said Lord Mayor have
caused the Seal of the Office of
Mayoralty of the said City of
London to be hereunto put and
affixed, and the several accounts
mentioned and referred to in and
by the said Affidavit to be here-
unto also annexed. Dated in
London the 13th day of June,
in the year of our Lord 1763.

HODGES.

LONDON, scil.

J— W—, Clerk or Book-keeper to
E— C— and J— M—, of Lon-
don, Merchants and Partners, maketh oath,
That he hath lived with the said E— C—
and J— M—, for the space of three years
and upwards, and saith, That the accounts here-
unto annexed, intituled W— K—'s disburse-
ments, purporting to be an account for the Snow
Elizabeth from St. Kitts, and the Portlage Bill
for the said Snow Elizabeth from Antigua to
London; and also the account hereunto also an-
nexed, intituled debtor, the owners of the Snow
Elizabeth in account with W— K—, cre-
ditor, is a true extract or copy of the same ac-
counts as delivered in, and settled and adjusted
by the said W— K—, and that the sum of
87 *l.* 15. 10*d.* appearing to be the balance of the
said last mentioned account, was well and truly
paid to the said W— K— by the said E—
C— and J— M—, and that the re-
ceipt was duly signed by the said W— K—
on the original account now in the custody of the
said C— and M—: And this Deponent
further saith, That he hath carefully perused and

examined the account hereunto also annexed, in titled Debtor, the owners of the Elizabeth, W— K— Commander, in account current with C— and M—, creditors, with the books of account of the said E— C— and J— M—, and that the same is a true extract or copy of the same account taken from the said books, and doth agree therewith: and this Deponent saith, by means of his said employment, he knows the several sums of money in the said last account mentioned to be paid to W— S—, and the several other persons therein named, and for postage of letters, and such other purposes as therein is specified, were all well and truly paid and disbursed by the said E— C— and J— M—; and that he, this Deponent, hath carefully computed and examined the several sums charged in the said annexed account for interest and commission, and that the same are rightly charged and computed, and are the same as usually charged and allowed in the like cases: and this Deponent further saith, That he hath also perused and examined the account hereunto annexed, intituled Debtors, N— R— and Mr. R— B—, junior, in account current with C— and M—, creditors with the books of account of the said E— C— and J— M—, and that the same is a true extract or copy of the same account taken from the said books, and doth agree therewith: and this Deponent further saith, He knows also that the several sums in the said annexed account, mentioned to be paid to J— C—, and the several other persons therein named, for the several purposes therein mentioned, were well and truly paid by the said E— C— and J— M— accordingly: and that he, this Deponent, hath

hath computed and examined the several sums charged in the annexed account for interest and commission, and that the same are rightly computed and justly charged: and lastly, this Deponent saith, That to the best of this Deponent's knowledge and belief, the said E—— C—— and J—— M—— have, in the said two last mentioned accounts, brought to account and given credit for all monies and effects received by them on the said accounts respectively. H—— T—— J—— W——.

Sworn at London, the 13th

day of June 1763, before

me,

WILLIAM BECKFORD, Lord Mayor.

An AFFIDAVIT under the Seal of the City of Bristol, for the purpose of recovering a Debt in one of the Colonies.

B—— H——, of the City of Bristol, Plumber, maketh oath, That on or about the first day of March 1763, he this Deponent agreed with R—— P——, Commander of the Brig Flora, then bound from the port of Bristol to Antigua (on account of T—— H——, jun. as he could not appear personally at that time for fear of arrefts) for the passage of T—— H——, E—— his wife, one child, and a negro servant, from the said port of Bristol to Antigua, at the price of fifty pounds sterling, one half of which to be paid at the port of Bristol before the sailing of the said brig (which was paid accordingly), and the other half to be paid by the said T—— H—— on his arrival at Antigua in the said brig: and this Deponent further saith, That the said T—— H—— was to find himself, wife, child, and negro servant,

vant, with such provisions during such said passage, as is usual for passengers: and this Deponent further saith, That the said T—— H——, E—— his wife, and their family, were in consideration of such said 50 l. so to be paid as aforesaid, to have the use of part of the cabbins in the said brig, during such their said passage; and that the above is the whole agreement so made by this Deponent, for or on account of the said T—— H——, for such his said passage to Antigua in the said brig as aforesaid.

B—— H——.

Seal
of
the City of
BRISTOL.

I Richard Farr, Esq; Mayor of the City of Bristol, within which city the above B—— H—— resides, do certify that the above named B—— H—— came before me this 24th day of March 1764, and after he had subscribed the above written Affidavit, made oath of the truth thereof on the Holy Evangelists of Almighty God. In testimony whereof, I the said Mayor have caused the Seal of Office of Mayor of the said City to be hereunto put and affixed the day and year above written.

RICHARD FARR, Mayor.

By an Act of Assembly of the Island of Antigua, the method of proving debts due to persons residing in Great Britain, introduced by the 5 Geo. II. c. 7. is extended to debts due from persons in Antigua, to creditors residing in Ireland, the continent of America, or in any other
of

of his Majesty's Colonies or Plantations, provided that in every Affidavit and Affirmation, there shall be expressed the addition of the party making the same, and the particular place of the witnesses abode; and that before such examination, nine months notice be given in writing to the adverse party or his counsel, of the names of the witnesses, and the time and place of the examination, which Affidavit or Affirmation may be made before, and certified under the seal of office, or under the private seal of the Chief Governor, or the person in command for the time being, Mayor, or Justice.

And by another section of the same Act of Assembly, Conveyances and Deeds, Letters of Attorney, Procurations, and other Powers in Writing, made out of the Island, with a deposition proving the same, sworn before the Lord Mayor of London, York, or Dublin, or any other Mayor, or chief Officer of any City or Town Corporate, within Great Britain or Ireland, attested under the Public Seal of such City or Town Corporate, or under the Hand and Public Seal of any Chief Governor or Magistrate, Lieutenant Governor, or President of the Council of any Colony in his Majesty's dominions, and annexed to the thing proved, shall be as sufficient evidence in law and equity, as if the witnesses therein named made such proof *viva voce*, provided that such deed, if concerning lands and slaves, be recorded in the Register's office of Antigua, as the laws of that Island require.

Similar Acts of Assembly have passed in some other Colonies.

C H A P. XV.


The Method of authenticating LETTERS of ATTORNEY, which are to be transmitted without Affidavits of Debt; together with FORMS of LETTERS of ATTORNEY, adapted to various Cases.

ALL Affidavits transmitted to the Colonies, for the purpose of recovering debts, must be authenticated in the manner directed by the statute of 5 Geo. II. c. 7. above recited; and when a Letter of Attorney is transmitted at the same time with an Affidavit, they are both annexed together, and certified under the Common Seal of the City, Borough, or Town corporate, where, or next to which, the person making the Affidavit or Affirmation happens to reside; but where a Letter of Attorney is transmitted without an Affidavit, it may then either be certified under such Common Seal as aforesaid, or (which is the easiest and least expensive method) it may be executed in the presence of persons who are going to the Colony to which the Letter of Attorney is to be transmitted: and then one of the subscribing witnesses may prove the execution of the Letter of Attorney, before a Judge of the Colony in which such Letter of Attorney is to be made use of:—I shall give the Reader different forms of each sort.

A LETTER of ATTORNEY certified under the Seal of the City of London.

TO all to whom these presents shall come, I Sir Samuel Fluyder, Knight and Baronet, Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the fifth year

year of the reign of his late Majesty King George the Second, intituled, An Act for the more easy recovery of Debts in his Majesty's Plantations and Colonies in America, do hereby certify, That on the day of the date hereof, personally came and appeared before me B—— H——, the Deponent named in the Affidavit hereunto annexed, being a person well known, and worthy of good credit; and by solemn oath, which the said Deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed Affidavit.



SEAL OF
the City of
LONDON.

In faith and testimony whereof,
I the said Lord Mayor have caused the Seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, and the Letter of Attorney mentioned and referred to in and by the said Affidavit to be hereunto also annexed, dated in London, the 16th day of April, in the year of our Lord 1762.

HODGES.

LONDON, to wit,

B—— H——, Clerk to W—— T—— of the parish of St. Edmund the King and Martyr, London, Notary Public, maketh oath, That on the 15th day of April instant, he this Deponent was present, and did see A—— J—— (by the name, style, and title of A—— J—— of Pall Mall, in the County of Middlesex, taylor) sign, seal, and as his act and deed, in due form of law, execute
and

and deliver the original paper, writing, procuration, or Letter of Attorney hereunto annexed, bearing date the said 15th day of April instant, to and for the uses, intents, and purposes therein mentioned. And that in testimony of such execution, he this Deponent and R—— P——, also Clerk to the said W—— T——, severally set or subscribed their names as witnesses thereto, as thereby may appear.

Sworn the 16th day of April, B—— H——,
in the year 1762, before
me at the Mansion House,
S. FLUDYER, Mayor.

On the 15th day of April, in the year of our Lord 1762, before me W—— T——, Notary and Tabellion Public in London, duly admitted and sworn, and witnesses, personally appeared A—— J—— of Pall Mall, in the County of Middlesex, taylor, who declared to have made, ordained, constituted, authorised, and appointed, and by these presents doth make, ordain, constitute, authorise and ordain J—— H——, of the Island of Antigua, Esq; his true and lawful Attorney, giving and hereby granting unto his said Attorney, full power and lawful authority for him the said constituent, in his name and for his use, to ask, demand, levy, sue for, and by all lawful ways and means recover and receive, of and from all and every, or any person or persons whatsoever whom it shall or may concern, inhabiting or being in the Island of Antigua aforesaid, or any other of the Leeward Islands, all such sum and sums of money, goods, wares, merchandize, effects, estate and things which now are, or shall or may hereafter be due, owing, payable, belonging, or in any wise appertaining unto him
the

the said Constituent, whether by bond, note, bill, book, debt, account, consignment, contract, agreement, decree, sentence, judgment, execution, extent, or for, by, or upon any other account, way, reason, or means soever, nothing in law or equity excepted or reserved; and to that end, with all and every or any person or persons whatsoever whom it shall or may concern, inhabiting or being in the Island of Antigua aforesaid, or any other of the Leewards Islands, to account and to view, state, settle, and adjust all accounts, and the balance thereof to receive, and upon recovery and receipts, to give one or more acquittances, or other sufficient discharges, in due form of law; but in case of refusal or delay, by all and every, or any person or persons whatsoever whom it shall or may concern, to make and render just and true account, payment, delivery and satisfaction in the premises, him, her, them, any or either of them, thereunto to compel, by all lawful ways and means whatsoever; also (if need be) to appear before all or any Lords Judges, and Justices, in any Court or Courts, there to answer, defend and reply, in all matters and causes touching or concerning the premises, to do, say, pursue, implead, seize, sequester, attach, arrest, imprison, and to condemn, and out of prison again to deliver; also to compound, conclude, and agree, by arbitration or otherwise, as his said Attorney shall think fit: and generally in and concerning the premises to do, perform, and execute, all and whatsoever shall be requisite and necessary, as fully, amply, and effectually, to all intents, constructions, and purposes, as he the said Constituent might or could do if personally present. With power to substitute one or more Attornies under him, with like or limited power,
and

and the same again to revoke, he the said A—J— hereby ratifying, confirming, and holding for good and valid, all and whatsoever the said J—H—, or his substitutes, shall lawfully do, or cause to be done, in or about the premises, by virtue of these presents; thus done and passed in London aforesaid, in the presence of the underwritten witnesses.

Sealed and delivered (being first duly stamped) in the presence of

B— H—

R— P—.



In præmissorum fidem

W— T—, Not. Pub.

1762.

A SUBSTITUTION under the last mentioned LETTER of ATTORNEY.

ANTIGUA.

KNOW all men by these presents, That I J—H— of the Island of Antigua aforesaid, Esq; the lawful Attorney of A—J— of Pall Mall, in the County of Middlesex, and Kingdom of Great Britain, taylor, have made and ordained, and by these presents (by virtue of the power and authority to me in that behalf given by the said A—J—, by a certain writing, or Letter of Attorney under his hand and seal, dated the 15th day of April 1762), do make, ordain, constitute and appoint R—K—, of the said Island of Antigua, merchant, to be my true, certain, and lawful Attorney; and I do hereby authorise and empower him to act as, and to be the Attorney of the said A—J—, in his name to demand, sue for, recover

recover and receive, of and from all and every person or persons whatsoever, whom it doth and shall concern, as well in his Majesty's Island of * Dominica, as in all other his Majesty's Charibbee Islands in America, all such sum and sums of money, goods, wares, merchandize, effects, estate, and things which now are, or shall or may hereafter be due, owing, payable, belonging, or in any wise appertaining unto him the said A—— J——, whether by bond, note, bill, book, debt, account, consignment, contract, agreement, decree, sentence, judgment, execution, extent, or for, by, and upon any other account, way, reason, or means whatsoever, nothing in law or equity excepted or reserved. And I the said J—— H—— do hereby give and grant unto the said R—— K——, all my full power and authority, as Attorney of the said A—— J——, and otherwise in and touching the premises, to use, have, and take all lawful ways and means, in and for recovering and receiving of all sum and sums of money, goods, wares, merchandises, effects, estate, and things, or any part thereof, as well in his Majesty's said Island of Dominica, as in all other his Majesty's Charibbee Islands in America, and to do and perform all other matters and things in and to the premises requisite and necessary, as fully as I myself might or could do, by virtue of the power to me given by the said A—— J—— or otherwise : and I do hereby ratify and confirm all and whatsoever my said Attorney shall legally do or procure to be done, in and touching the premises.

* The Attorney exceeded the power delegated to him ; for his authority extended only to the Leeward Islands, and Dominica was not one of them : the substitution was therefore void as to Dominica, and such of the Charibbees as were not in the government of the Leeward Islands.

In witness whereof I have hereunto set my hand and seal, this day of December 1764.

Sealed and delivered in J—— H——. (L. S.)
the presence of
L—— M——.

A LETTER of ATTORNEY certified by the Lord Provost of Glasgow, under the Common Seal of that City.

KNOW all men by these presents, That I J— J—, postmaster of Glasgow, and merchant, for divers good causes and considerations me thereunto moving, have made, constituted, and appointed, and by these presents do make, constitute, and appoint C—— J—— of St. John's in Antigua, merchant, my true and lawful Attorney, for me and in my name, and for my use, to ask, demand, sue for, recover and receive, of all and whoever are or may be indebted to me, in any of the West India or American Islands belonging to Great Britain, France, Spain, Denmark, and Holland, all such sum and sums of money, debts and duties whatsoever, which now are or may be due and owing to me the said J— J——, by all and whoever are or may be indebted to me, belonging to the above mentioned Islands, and to have, use, and take all lawful ways and means in my name, for recovery thereof by attachment, arrest, distress, or otherwise, and to make and give acquittances, or other discharges, in my name, and generally to do and execute in the premises, as fully in every respect as I myself might or could do, being personally present, and to make Attornies, one or more of them under him, for the purposes aforesaid, and at his pleasure to revoke the same; ratifying, confirming, and allowing all and whatsoever my said Attorney shall lawfully do or cause to be done therein by virtue of these presents.

In witness whereof I have hereunto set my hand and seal, this 21st day of September, in the year of our Lord 1763.

Signed, sealed, and delivered in presence of J—— J——. (L. S.)

J—— G——.

D—— W——.

At Glasgow the 5th day of October seventeen hundred and sixty-three years, in presence of Archibald Ingram, Esq; Lord Provost and Chief Magistrate of the said City, one of his Majesty's Justices of Peace for the County of Lanerk, appeared J—— G—— of said City, merchant, who upon his great and solemn oath, taken by him before the said Provost, upon the Holy Evangelists of Almighty God, depofes and fays, That he, this Deponent, was present and did see the within J—— J—— sign, seal, and for and as his true and genuine act and deed, deliver the Letter of Attorney within written, upon the day of the date thereof; and that D—— W—— of said City, merchant, was also then present, and that the name J—— J——, appearing at said Letter of Attorney as granter thereof, and seal thereto adhibited, is the proper hand-writing and seal of J—— J—— aforesaid; and that the names J—— G—— and D—— W——, also appearing at said Letter of Attorney, as witnesses thereto, are of the respective proper hand-writings of this Deponent, and of D—— W—— aforesaid.

In testimony whereof these presents are subscribed by the said Deponent, and by the said Lord Provost, who has caused the Common Seal of the said City to be hereto affixed, date above.

L. S.

ARCH. INGRAM.

J—— G——.

D d

LET-

LETTER of ATTORNEY executed by a Gentleman in England, empowering his Friend in Nevis to appoint Persons to take an Inventory and Appraisement of Negroes, &c. on the Expiration of a Lease.—The Execution of this Letter of Attorney was proved before a Judge in Nevis, by one of the subscribing Witnesses, who saw the same executed in England.

TO all to whom these presents shall come, I
 T—— B—— of Darking, in the County of
 Surry, Esq; send greeting, Whereas by an Indenture of Lease, bearing date the 14th day of June, in the year of our Lord 1753, made between the said T— B— of the one part, and W— W— of the said Island of St. Christopher, Esq; of the other part, to commence from the 1st day of August then next ensuing, for the term of ten years, it is therein, amongst other things, mutually covenanted and agreed, by and between both the said parties, That at the end, expiration, or other sooner determination of the said term of ten years, a new Appraisement or Valuation shall be made and taken, of all the negroe-slaves, horses, mules, cattle, and of the issue and increase thereof, which shall then be, and of all the Plantation utensils and implements thereby demised, and in the schedule or inventory thereunto annexed, contained, as also of all canes which shall be then standing and growing, and of all the buildings upon the said demised lands, and that such new Valuation and Appraisements shall be made and taken, by two indifferent persons, of good reputation and competent judgment in that behalf, one of them to be named and chosen by the said T—— B——, his heirs or assigns, and the other by the said W—— W——, his executors, administrators, or assigns; and in case such
 Appraisement

Appraisement so to be made, at the end of the said term, shall, upon the valuation thereof, exceed the sum of 10,356*l.* 5*s.* 10*d.* current money of Nevis, that then and in such case, he the said T—— B——, his heirs or assigns, shall and will pay unto the said W—— W——, his executors, administrators, or assigns, so much money as the surplus or excess thereof (if any be) shall amount to, over and above the sum of 10,356*l.* 5*s.* 10*d.* current money of Nevis; and in case the said new Appraisement, so to be made at the end of the said term thereby demised, shall fall short of, and be less in value than the said sum of 10,356*l.* 5*s.* 10*d.* that then the said W—— W——, his executors, administrators, or assigns, shall and will pay unto the said T—— B——, his heirs or assigns, such sum, and so much money, whatsoever the same be, as such future Valuation and Appraisement, so to be made and taken as aforesaid, shall amount to. Now know ye, That I the said T—— B——, for the end and purpose aforesaid, have constituted and appointed, and by these presents do constitute and appoint H—— H——, of the Island of Nevis, Esq; to be my true and lawful Attorney, for me, and on my behalf, to nominate and appoint one or more person or persons, to take an account of all the negro slaves, and all other things contained in the schedule or inventory annexed to the said lease, that are now, or shall be remaining and being on the demised premises, and to make and take a new Inventory and Appraisement thereof; which Inventory and Appraisement so to be made and taken, between the said T—— B—— and W—— W——, it is hereby declared and agreed shall stand and be binding on them, the said T—— B—— and H—— H——, and be annexed to, and comprized

prized in the schedule of the lease of the said premises now granted by the said T—— B—— to the said H—— H——, which bears date the 3d day of this instant May, to commence from the 1st day of August now next ensuing; and to do, execute, and perform all and every other act and acts, thing and things whatsoever, which shall be thought necessary and convenient to be done, in or about the premises, hereby ratifying and confirming all and whatsoever my said Attorney shall lawfully do, or cause to be done, in, about, or touching the same. In witness whereof I the said T—— B—— have hereunto set my hand and seal, this 9th day of May 1763.

Sealed and delivered by T—— B——. (L. S.)
the above named T——
B——, in the presence
of us,

W—— M——, *jun.*

J—— W——, *jun.*

BEFORE Joseph Herbert, Esq; Chief Justice, &c. personally appeared Mr. W—— M——, *jun.* and made oath on the Holy Evangelists of Almighty God, That he was present and did see the within named T—— B——, Esq; sign, seal, and deliver the within Letter of Attorney to H—— H——, Esq; and that he did also see J—— W——, *jun.* subscribe his name to the same, together with this Deponent, as witness thereto.

Sworn before me, August 1 W—— M——, *jun.*
27th 1763.

JOSEPH HERBERT.

The

The above Affidavit seems to have been drawn in a hurry; had it been drawn at leisure, it would perhaps have been something in the following form, which may serve as a precedent in similar cases:

Before the Honourable JOSEPH HERBERT, Esq; Chief Justice of his Majesty's Court of King's Bench and Common Pleas of the Island of Nevis.

PERSONALLY appeared A— B—, late of C—, in the Kingdom of Great Britain, but now of the said Island of Nevis, Esq; who being duly sworn on the Holy Evangelists of Almighty God, maketh oath, That he this Deponent is one of the subscribing witnesses to the above Instrument of Writing, bearing date the ninth day of May one thousand seven hundred and sixty-three, and purporting to be a Letter of Attorney from D— E— of F—, in the County of Surry, Esq; to G— H— of Nevis, Esq; and this Deponent saith, That he was present and did see the above named D— E— sign, seal and deliver the above written Instrument, or Letter of Attorney, as his act and deed, at F— in the County of Surry, in the Kingdom of Great Britain aforesaid; and that the name or letters D— E— set and subscribed at the foot or bottom of the above Instrument of Writing or Letter of Attorney, as the person executing the same, are of the proper hand-writing of the said D— E—: And lastly, this Deponent saith, That the name or letters A— B—, and the name or letters J— K—, appearing to be set and subscribed as witnesses attesting the execution of the above Instrument of Writing or Letter of Attorney, are of the respective proper hands writing of this Deponent,

ponent, and of J— K—— late of M—, in the said Kingdom of Great Britain, but now of the Island of Nevis aforesaid, Esq.

Sworn at the Island of Nevis, A—— B——.
the 27th day of August
1763, before me
JOSEPH HERBERT.

This form of an Affidavit is supposed to be written under the Letter of Attorney, and on the same sheet of paper; but when it is written on the back of the Letter of Attorney, it must be varied accordingly, by saying, the “*within*” Instrument of Writing, instead of the “*above*” Instrument, &c.

A POWER of ATTORNEY from the Assignees of a Bankrupt in Bristol, to recover a Debt from his Partner in Antigua.

TO all to whom these presents shall come, J—— P—— and W—— B——, merchants, and T—— M——, apothecary, all of the City of Bristol, send greeting, Whereas B—— S——, late of the Island of Antigua, but now of the City of Bristol, merchant, and partner with G—— R—— of Antigua aforesaid, merchant, is lately become bankrupt, and a commission of bankruptcy under the Great Seal of Great Britain, bearing test at Westminster the 4th day of February last, hath been awarded against him, which commission hath been carried into execution, and the said B—— S—— thereupon adjudged a bankrupt, and the said J—— P——, W—— B—— and T—— M—— have been duly chosen assignees of the estate and effects of the said B—— S——; and thereupon an assignment of such estate and effects hath, by indenture,

indenture, bearing date the twenty-sixth day of February last, been made and executed by the Commissioners, in the said commission named to them, the said J—— P——, W—— B—— and T—— M——, as in and by the said indenture, reference thereto being had, will more fully and at large appear. And whereas there are sundry goods, wares, and merchandises, and also several debts and sums of money due, owing and belonging to the estate of the said B—— S——, jointly with the said G—— R——, and on his own separate account in Antigua aforesaid, and other places beyond sea, and also in the hands of the said G—— R——. Now know ye, That we the said J—— P——, W—— B——, and T—— M——, have, and each and every of us hath made, ordained, constituted, authorized, impowered, appointed, and deputed, and by these presents do, each and every of us doth make, ordain, constitute, authorize, impower, appoint, and depute R—— N——, of the said City of Bristol, mariner, our and each and every of our true and lawful Attorney, for us the said Assignees, and in our or any of our names, to ask, demand, levy, sue for, take, recover and receive, of and from the said G—— R——, and all and every other person and persons whomsoever, in Antigua aforesaid, or elsewhere, his, their, or any of their executors, administrators, or assigns, all and all manner of goods, wares, and merchandises, debts, sum and sums of money whatsoever, due, owing, or in any manner belonging to the estate of the said B—— S——, either as partner with the said G—— R——, or in his own private or separate capacity, and to call to account and bring to reckoning the said G—— R——, and such other person and persons, his, her, and their executors and admini-

strators, and to state, settle, and finally adjust all accounts, reckonings, and demands whatsoever relating thereto; and if it shall be thought necessary to refer any disputes touching the same to arbitration, and for that purpose, for us and in our names to enter into and duly execute any bond or bonds of arbitration, for the submitting such disputes to be settled and adjusted by referees to be chosen for the purpose; and also, if he shall see occasion to take and accept of a composition or compositions, in lieu of and for such goods, wares, and merchandizes, debts, sum or sums of money; and upon receipt of such goods, wares, and merchandizes, debts, sum or sums of money, or any composition, or any security or satisfaction for the same, for us and in our names to sign, seal, and duly execute and deliver such receipts, acquittances, releases, or other discharges, as the nature of the case shall require, and on non-payment or non-delivery of such goods, wares, and merchandizes, debts, sum or sums of money, to bring, commence, and effectually prosecute such suit or suits, either in law or equity, for the recovery thereof, as our said Attorney shall judge necessary or be advised, and in such suit or suits to proceed to judgments, decrees, and executions, and such suit or suits to discontinue, or therein to become nonsuit, and commence others as occasion shall require; and likewise one or more Attorney or Attorneys under him the said R—N—, for the purposes aforesaid, to substitute and appoint, and the same at pleasure to revoke, and to substitute other or others in his or their stead or steads, and generally to do, perform, and execute, all and every such farther act and acts, thing and things whatsoever, for the recovering, receiving, compounding, and discharging the said goods,

goods, wares, and merchandizes, debts, sum and sums of money, as shall be, or by our said Attorney shall be thought to be requisite and necessary, in as full and effectual manner, to all intents and purposes, as we ourselves, or either of us, could or might do if personally present; and all and whatsoever our said Attorney, or his substitutes, shall lawfully do or cause to be done, in any of the premises aforesaid, by virtue of these presents, we do hereby agree to allow, ratify, and confirm for valid. In witness whereof we have hereunto set our hands and seals, the 16th day of March, in the 5th year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth, in the year of our Lord 1765.

Sealed and delivered by the

within named J— P—,

T— M—, and W— B—,

in the presence of

P— D—, *jun.*

S— W—.

POWER of SUBSTITUTION.

St. CHRISTOPHER'S.

KNOW all men by these presents, That I J— O—, Esq; at present in the Island of St. Christopher, but about to depart to the Island of St. Vincent, the lawful Attorney of D— O—, now or late residing in the County of Middlesex, in the Kingdom of Great Britain, Esq; have made, ordained, constituted, and by presents (by virtue of the power as me in that behalf given, by th

by a certain Writing or Letter of Attorney under his hand and seal, dated the fifth day of April 1768), do make, ordain, constitute, and appoint W— P—, of the said Island of St. Christopher, merchant, to be my true, certain, and lawful Attorney: and I do hereby authorize and empower him, the said W— P—, to act as, and to be the Attorney of the said D— O—, and in his name, place and stead, and to and for his use, to ask, demand, and by all lawful ways and means whatsoever to recover and receive, of and from all and every person or persons whatsoever, in the said Island of Saint Christopher or elsewhere, in his Majesty's Leeward Charibbee Islands in America, whom it doth, shall, or may concern, all and every sum and sums of money, debts, dues, goods, chattels, effects, and other things which is or are, and which shall or may grow and become due, owing, payable, or belonging to him the said D— O—, upon or by virtue of any mortgage, bond, judgment, or other specialty, or upon any bill of exchange, promissory note, or other simple contract, or by virtue of any deed or will, or upon any account, or by any ways or means whatsoever or howsoever, and upon receipt or recovery thereof, or of any part thereof, for him the said D— O—, and in his name, from time to time to make, give, and execute, good and sufficient acquittances and discharges for the same, and for him the said D— O—, and in his name, or in the name of him my said Attorney, as and for his the said D— O—'s act and deed, or acts and deeds, to sign, seal, and deliver any deed or deeds, conveyances and assurances, good, valid, and sufficient in the law for reconveying or assigning and assuring any Plantations, lands, tenements, negroes, hereditaments, and

and chattels, which he the said D— O— now hath or may have, in mortgage for any sum or sums of money, upon payment of the principal money and interest due on such mortgage or mortgages, and to give good and sufficient acquittances and discharges for the consideration or mortgage money, and all or every or any such deed or deeds, conveyances and assurances, to acknowledge as for his the said D— O—'s act and deed, or acts and deeds, before any Judge, or other Magistrate or Officer appointed, or to be appointed, to take the acknowledgment of deeds, so that the same may be recorded and perfected in due form of law; and to call to account and bring to a reckoning all and every person and persons concerned in the premises, and to settle and adjust all accounts now or hereafter depending between him the said D— O—, and all or any person or persons whomsoever, upon such terms, and in such manner, and with such allowances therein, as the said W— P— shall think fit and advisable for his the said D— O—'s interest; and in case any difference or dispute shall arise concerning the premises, to refer the same to arbitration, if the said W— P— shall so think fit, and for the said D— O—, and on his behalf, to abide by and perform such award as shall be made, in pursuance of such reference; and also, if need be, to compound and take less than the whole of, and for any debt or debts, sum or sums of money, or other matter or thing which is or are, and which shall become due and payable or belonging to him the said D— O—, by or from any person or persons whomsoever: and I the said J— O— do hereby authorize and empower my said Attorney, as and when he shall think proper, to commence, sue, and

or defend, any action or suit, actions or suits, at law or in equity, and to pursue all or any legal or equitable means, as occasion shall be and require, for touching or concerning all, every, or any the matters aforesaid, in any wise howsoever, and for him the said D—— O——, and in his name, and to and for his use, to accept and take any security or securities, for any debt or debts due to him, as my said Attorney shall think fit and approve; and generally to do and perform all other acts, deeds, matters, and things needful or requisite in and about all and singular the premises, as fully and effectually, to all intents and purposes whatsoever, as I myself might or could do, by virtue of the power to me given by the said D—— O—— or otherwise; and I do hereby ratify, allow, and confirm, all and whatsoever my said Attorney shall lawfully do or cause to be done in and about the premises, by virtue of these presents. In witness whereof I have hereunto set my hand and seal, the 20th day of May, in the year of our Lord 1769.

Sealed and delivered, &c.

C H A P. XVI.

Of the NEGROES in the Colonies, and the Mode of conveying and manumitting them.

TO enumerate the severities that are exercised by some Planters in the Sugar and Rice Colonies on their Negroes, would exceed the bounds of this design. I shall at present content myself with observing, that in the Sugar Colonies the lands in which they plant canes are not ploughed, but hoed up by Negroes, who have no prescribed task, but are followed up by drivers with whips. Their food is either Indian corn, rice, yams, Potatoes, or horse-beans, in much smaller quantities than are necessary for people who work hard; and these unhappy people are often laid down and severely whipped for slight offences. Whilst I was in the West Indies, a man of good credit told me, he was present at a Planter's house there, when one of the Negroes complained to his master that his allowance of corn was too small, and the land allowed him so trifling, that he had not enough to live on. The master said he would not increase his allowance: whereupon the Negro asked, "What must I do?" To which the master replied, Why, d—n you, steal!" In St. Kitt's, the Negroes are worse off than in most of the other Sugar Colonies, because that Island is small, and the land so fertile, that they allow their Negroes very little ground to plant for themselves. The slender allowance made the Negroes in the Islands in general is not only a circumstance of great cruelty to them, but is productive of very disastrous consequences to the white people w^h towns; for hunger compels the N

and they frequently not only rob the yards of the stock, but even break open stores, and carry off provisions to a large amount. These depredations are sensibly felt in a country where the lands, though fertile, are chiefly employed to raise sugar canes; so that provisions and stock are laid in at a great expence, and the supply is precarious, particularly in time of war. But there are two evils attending the enslaving the Negroes in the Colonies, which must induce every good man to condemn it: the one is, the neglecting to instruct them in the principles of the Christian religion; nay, I have heard men, who ought to have known better, ridicule such an attempt: the other is, that from cruelty, hard labour, and a want of sufficient food, the number of Negroes that die exceeds the number that are born in most if not in all the Islands; so that an annual supply from the Coast of Guinea is necessary to keep up their quota.

In the Rice Colonies, the case is not quite so bad as in the Sugar Islands; for, in the Rice Colonies the Negroes in general have rice, Indian-corn, potatoes, or black-eyed pease, sufficient to subsist them, and land enough to plant for themselves; they have also a certain limited task every day, be their work either that of planting, or sawing lumber; and this task in general is not too hard. Their numbers also do not decrease on the Indigo Plantations and Lumber Estates; but then in the Rice Plantations they are frequently obliged to get up in the winter before day, and work in the barn; and when they are heated with labour in a close building, warmed with a fire, they are then turned out to work in the Rice Swamps, half leg deep in water, which brings on pleurisies and peripneumonies, and destroys numbers of them; and in the Summer,

ther, the quantity of water let into the Rice-fields makes it very sickly.

The pretence that sugar canes and rice could not be raised without the labour of Negroes, is erroneous. The White Creoles of Anguilla and Tortola, and the Ten Acre men in Barbadoes, who have been bred up in active life, and not debauched with ease and luxury, are a brave hardy people, and prove that White men can cultivate lands in a tropical climate; and many of the poor White people in Carolina and Georgia raise grain without the assistance of Negroes. A white man, with a light plough drawn by two horses, will cultivate as much land as seven Negroes with hoes.

If the Reader should ask what share I have had in the traffic of human flesh, I smite my breast, and say, "God be merciful to me a sinner!" When I went to the West Indies, they told me I could not do without Negroes; and a gentleman bought one, sent her home, and told me he had given a bond for me, which I must take up. For want of reflection, I bought others from time to time; and when I went to North America, I had nine. There I planted Indigo; and at one time I had thirty-four Negroes. In the different countries where I resided, many said that I spoiled my Negroes with indulgence. Eight were killed at the siege of Savannah, and seven others I manumitted; so that I have not benefited by my dealing in Negroes. For some time I have been very uneasy at having ever purchased a Negro; and I heartily pray to be forgiven for the share I have had in enslaving my fellow-creatures.

The old settled Islands in the West Indies become every day more weak and defenceless; for the great planters buy up all the small tracts of land owned by the poorer white people, and plant

plant them with sugar canes; by which means the number of Negroes daily increases, and the number of Whites decreases. Many white families were formerly settled at the windward end of St. Kitt's, which is called the Salt Ponds; a country fit only for the raising of stock and provisions, with which, as also with fish, they supplied the town of Basseterre. These white people added greatly to the strength of the Island, and, as they occupied a part of the country unfit for sugar canes, it was adviseable, both from humanity and policy, to suffer them to remain undisturbed. But in a former reign, a gentleman obtained a grant of that part of the country, and he and another divided these lands between them. Part of these lands have since been converted into Sugar Plantations, and the white people turned off; but they produce little: and the salt pond has yielded little salt since the white people were moved away. Had Negroes never been introduced into the West Indies, the Islands would have been divided amongst a number of white people, who might have been able to defend themselves against foreign invasions; and as every one would have made some rum and sugar, or else have planted cotton, cocoa, pimento, ginger, or aloes, they would have consumed a much greater quantity of British manufactures than those countries do in their present state. At this time all the old settled Islands, except Jamaica, have fewer inhabitants than they had fifty years ago; and the number is daily decreasing. In process of time, most of the Sugar Islands will probably become the property of a few over-grown planters, who may perhaps carry matters with a high hand over their inferiors. In my time there were leading men on many of the Islands, who kept the inferior people in a state of great dependency; and in one

of the Islands, I well remember an Aristocracy carried all before them.

In all the Colonies, Negroes, on their first importation from Guinea, are absolutely personal estate; they are carried on shore from the ship to some yard, and sold there like cattle in a fair. The wife is often separated from the husband, and the child from its parent. No deed or writing is necessary for the conveyance of them from the Guinea Factor to the purchaser. When an agreement is made for the price, the purchaser takes them away, and pays down the purchase money; or, which is more usually the case, he gives a bond for payment at a future day; but if, after Negroes are sold in the Guinea Yard, the purchaser does not carry them out of the Island or Province forthwith, but works and employs them there; then they are either real or personal estate, according to the laws of that Colony in which they continue. In Antigua, Barbadoes, and Jamaica, seasoned Negroes are real estate, subject nevertheless to be extended and sold as personal estate for the satisfaction of debts, by the Stat. of the 5 Geo. II. c. 7. above mentioned, and also by the Provincial laws of most of the Colonies. They were also real estate in Virginia before the civil war. In some of the Plantations, Negroes are, in all respects, personal estate; in others they are of a mixed nature; for in the Island of Nevis in particular, Negroes are personal estate, until they have been once worked on lands there; and from that time they ever afterwards become real estate, and follow the same course of descent, unless they are extended and sold for payment of debts: all the Colonies where Negroes are real they must be conveyed by deed; and they must be registered in the Office. In for

Colonies where they are personal estate (particularly in the Island of Montserrat), seasoned Negroes cannot be conveyed without a bill of sale registered in the Office.

A FEOFFMENT of a Negro Woman and her Daughter, a Mulatto, in the Island of Antigua, where Slaves are Real Estate.

ANTIGUA.

THIS Indenture was made the day of June, in the year of our Lord 1763, between E. C. of the town of St. John in the Island of Antigua, spinster, of the one part, and D. H. of the parish of St. John in the Island of Antigua aforesaid, of the other part, witnesseth, That for and in consideration of the sum of 65 l. of good current money of the said Island of Antigua to the said E. C. in hand, well and truly paid by the said D. H. at or before the sealing and delivery of these presents, the receipt whereof she the said E. C. doth hereby acknowledge, and thereof and of every part thereof doth acquit, release, and discharge the said D. H. his executors, administrators, and assigns, and every of them, for ever, by these presents, she the said E. C. hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed; and by these presents doth grant, bargain, and sell, alien, enfeoff, release, and confirm unto the said D. H. his heirs and assigns for ever, one Negro woman slave, named Queen, with her child Margaret, a Mulatto girl, together with the issue and increase of the said slaves hereafter to be born; and the reversion and reversions, remainder and remainders, of the said slaves, and each of them, and all the estate, right, title, interest, trust, property, claim, and demand
whatsoever,

whatsoever, both at law and in equity of her the said E. C. of, in, or to the said slaves, and each of them, to have and to hold the said slaves, and each of them, unto the said D. H. his heirs and assigns for ever, to and for the only proper use and behoof of him the said D. H. his heirs and assigns for ever: and the said E. C. doth hereby for herself, her heirs, executors, and administrators, covenant, promise, grant, and agree to, and with the said D. H. his heirs and assigns, that the said D. H. his heirs and assigns, shall and may from time to time, and at all times hereafter peaceably and quietly have, hold, occupy, possess, and enjoy the said slaves hereby or mentioned, or intended to be hereby granted and conveyed, and each of them, without the lawful let, suit, trouble, denial, eviction, or interruption of or by the said E. C. her heirs, executors, administrators, or assigns, or of or by any other person or persons whomsoever, and that free and clear, and freely and clearly acquitted, exonerated, and discharged, or otherwise, by the said E. C. her heirs, executors, and administrators, well and sufficiently saved, defended, kept harmless and indemnified of, from, and against all and all manner of former and other gifts, grants, bargains, sales, leases, mortgages, jointures, dowers, titles of dower, uses, trusts, wills, entails, statutes, recognizances, judgments, extents, executions; and of, from, and against all and singular other estates, titles, troubles, charges, and incumbrances whatsoever, had, made, done, committed, occasioned, or suffered, or to be had, made, done, committed, occasioned or suffered by said E. C. her heirs, executors, administrators, assigns, or any of them, or by any other person or persons whomsoever; and also that

said E. C. is rightfully and absolutely seized in her demesne, as of fee, of and in the said slaves, of a good, sure, lawful, and indefeasible estate of inheritance in fee simple to her and her heirs for ever, without any reversion or remainder, trust, limitation, power of revocation, use or uses, or any other matter, restraint, or thing whatsoever, to alter, change, charge, revoke, make void, lessen, incumber or determine the same; and that she the said E. C. at the time of the sealing and delivery hereof, hath in herself good right, full power, and lawful and absolute authority to grant, bargain, sell, alien, enfeoff, release, and confirm the said slaves unto the said D. H. his heirs and assigns for ever: And lastly, that she the said E. C. and her heirs, and all and every other person and persons having or lawfully claiming, or which shall or may have or lawfully claim any estate, right, title, trust or interest at law or in equity, of, in, or to the said slaves hereby or mentioned or intended to be hereby granted and conveyed, or either of them, shall and will from time to time, and at all times hereafter, upon every reasonable request, and at the proper costs and charges in the law of the said D. H. his heirs or assigns, make, do, acknowledge, and execute, or cause or procure to be made, done, acknowledged and executed all and every such further and other lawful and reasonable acts, deeds, and and things, devices, conveyances, and assurances in the law whatsoever, for the further, better, more perfect, and absolute granting, conveying, and assuring of the said slaves hereby or mentioned or intended to be hereby granted and conveyed, and each of them unto, and to the use of him the said D. H. his heirs and assigns for ever, as by the said D. H. his heirs or assigns, or his or their

Counsel

Counsel learned in the law, shall be reasonably advised or devised and required, so as such further assurances contain in them no further or other warranty or covenants than against the person or persons, his or their heirs, who shall make or do the same; and so as the party or parties who shall be requested to make such further assurances, be not compelled or compellable for making or doing thereof, to go or travel above ten miles from his or their then respective dwellings or places of abode. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above-written.

E. C. (L. S.)

Sealed, delivered, and acknowledged this day of June
1763, in the presence of
E. G. Reg.

Received on the day of the date of the above-written Indenture of the above-named D. H. the sum of 65 l. of good, current, and lawful money of the said Island of Antigua, being the full consideration money above mentioned to be paid to me.

E. C.

Witness, E. G. Reg.

By an Act of Assembly of the Island of Antigua, the registering a deed in the Register's Office is equivalent to livery and seisin. This law has occasioned their frequently using the Deed of Feoffment in preference to any other mode of conveyance.

And by the laws of that Island, those parties to a Deed, from whom the interest passes, shall either

E c 2

know-

acknowledge such Deed before the Register in person; or else they must, by a Letter of Attorney, inserted in the Deed, empower some person or persons to acknowledge it for them before the Register. The introduction of this ceremony has frequently occasioned mistakes in the conveyances sent out from England: but in most of the other Islands, an Affidavit proving the execution of a conveyance is sufficient for the purpose of having it registered. I need say no more at present, because most of the Forms of Deeds hereafter inserted being authenticated according to the laws of those Islands respectively, for which they are intended, will speak for themselves.

A FEOFFMENT of a Slave in Antigua from a Man and his Wife, and the Trustee of the Wife, in which case the Wife was privately examined before a Judge to bar her of Dower.

ANTIGUA.

THIS Indenture Tripartite, made the day of in the year of our Lord 1765, between W. H. D. late of the Island of Antigua, Esq; (by R. B. of the said Island of Antigua, Esq; his Attorney by Deed, poll bearing date the day of 17 duly constituted and appointed) of the first part, E. P. of the said Island of Antigua, Gentleman; and Ann his wife, late Ann H. spinster, of the second part; and C. B. of the said Island of Antigua, Esq; of the third part: Whereas by Indenture Tripartite, made or mentioned to be made the 11th day of December, in the year of our Lord 1751, between Ann M. of the said Island, widow and relict of C. M. of the said Island, deceased, and residuary, devisee,

visce, and legatee of his Last Will and Testament of the first part; J. D. of the same place, Esq; of the second part; and C. H. and A. H. nephew and niece of the said A. M. of the third part. It is witnessed, that for and in consideration of the natural love and affection which she the said A. M. had and bore to and for the said C. and A. H. her nephew and niece; and also for and in consideration of the sum of 5s. current money of the said Island, to her in hand paid by the said J. D. the receipt whereof is thereby acknowledged, she the said A. M. did give, grant, bargain, sell, alien, enfeoff, release, and confirm unto the said J. D. his heirs and assigns for ever, all those the following slaves; that is to say, a Negro woman named Dinah, and her daughter Mary, and a Negro woman named Letitia, and her two daughters named Rose and Phillis, with all the future issue and increase of the said female slaves; and also all the estate, right, title, interest, property, claim and demand whatsoever of her the said A. M. of, in, and to the said slaves, or any or either of them, and the reversion and reversions, remainder and remainders, rents, services, and profits, of all and every the said slaves, to hold the said Negro woman named Dinah, and her said daughter Mary, and the said Negro woman named Letitia, and her said two daughters named Rose and Phillis, together with all their future issue and increase, unto the said J. D. his heirs and assigns for ever, to the only proper use and behoof of the said J. D. his heirs and assigns for ever: In trust nevertheless, and to and for such uses, intents, and purposes, only as are therein after expressly declared, viz. As for touching and concerning the said Negro woman named Dinah, and her daughter Mary, with their

their future issue and increase, in trust, and to and for the use and behoof of the said C. H. his heirs and assigns for ever : but in case he the said C. H. should happen to die under the age of twenty-one years, and without issue lawfully begotten, then in trust for and to the use and behoof of the said A. H. her heirs and assigns for ever ; and as for touching and concerning the said Negro woman named Letitia, and her said two daughters named Rose and Phillis, with their future issue and increase, in trust to and for the use and behoof of the said A. H. her heirs and assigns for ever : but in case the said A. H. should happen to die under the age of twenty-one years, and without issue lawfully begotten, then in trust for and to the use and behoof of the said C. H. his heirs and assigns for ever, and to and for no other use, intent, or purpose whatsoever, as in and by the said Indenture duly recorded in the Register's Office of the said Island of Antigua, relation being thereunto had, may more fully and at large appear : And whereas the said J. D. hath since departed this life, leaving the said W. H. D. his eldest son and heir at law ; and the said A. P. hath attained her age of twenty-one years, and hath intermarried with the said E. P. : And whereas the said C. B. hath agreed with the said E. P. and A. his wife, for the purchasing of the afore-said Negro girl slave named Phillis ; NOW THEREFORE, to the intent and for making the sale thereof accordingly, THIS INDENTURE WITNESSETH, That the said E. P. and Ann his wife (by and with the consent and approbation of the said S. H. D. testified by his being a party to, and signing and sealing these presents) for and in consideration of the sum of current money of the said Island of Antigua to the said E. P. in
hand

hand well and truly paid by the said C. B. at or before the sealing and delivery of these presents, (the receipt whereof the said E. P. doth hereby acknowledge, and thereof and of every part thereof doth acquit, release, and discharge the said C. B. his executors, administrators, and assigns, and every of them, for ever, by these presents) have, and each of them hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do, and each of them doth grant, bargain, and sell, alien, enfeoff, release, and confirm unto the said C. B. his heirs and assigns for ever, the said Negro girl slave named Phillis, together with the issue and increase of the said slave hereafter to be born; and the reversion and reversions, remainder and remainders of the said slave, and all the estate, right, title, interest, trust, property, claim and demand whatsoever, both at law and in equity of them the said E. P. and Ann his wife, of, in, or to the said slave, **TO HAVE AND TO HOLD** the said slave unto the said C. B. his heirs and assigns for ever, to and for the only proper use and behoof of him the said C. B. his heirs and assigns for ever; and the said E. P. doth hereby for himself and for the said Ann his wife, and for their respective heirs, executors, and administrators, covenant, promise, grant, and agree to and with the said C. B. his heirs and assigns; that he the said C. B. his heirs and assigns, shall and may from time to time, and at all times hereafter, peaceably and quietly have, hold, occupy, possess, and enjoy the said slave hereby or mentioned or intended to be hereby granted and conveyed, without the lawful let, suit, trouble, denial, eviction, or interruption of or by the said E. P. and Ann his wife, or either of them, the heirs, executors, administrators, or either of their heirs, executors, administrators,

tors or assigns, or of or by any other person or persons whomsoever ; and that free and clear, and freely and clearly acquitted, exonerated, and discharged, or otherwise, by the said E. P. and Ann his wife, and each of them, their and every of their heirs, executors, and administrators, well and sufficiently saved, defended, kept harmless, and indemnified of, from, and against all and all manner of former and other gifts, grants, bargains, sales, leases, mortgages, jointures, dowers, titles of dower, uses, trusts, wills, entails, statutes, recognizances, judgments, extents, executions, and of, from, and against all and singular other estates, titles, troubles, charges, and incumbrances whatsoever, had, made, done, committed, occasioned or suffered by the said Ann while she was sole, or by the said E. P. and Ann his wife since their intermarriage, or to be had, made, done, committed, occasioned, or suffered by the said E. P. and Ann his wife, their heirs, executors, administrators, or Assigns, or any or either of them, or by any other person or persons whomsoever : And also that they the said E. P. and Ann his wife are, or one of them is rightfully and absolutely seized in his, her, or their demesne as of fee, of and in the said slave, of a good, sure, lawful, and indefeasible estate of inheritance, in fee simple to them and their heirs for ever, without any reversion or remainder, trust, limitation, power of revocation, use or uses, or any other matter, restraint, or thing whatsoever, to alter, change, charge, revoke, make void, lessen, incumber, or determine the same ; and that they the said E. P. and Ann his wife, at the time of the sealing and delivery hereof, have in themselves good right, full power, and lawful and absolute authority, to grant, bargain, sell, alien, enfeoff, release, and confirm

confirm the said slave unto the said C. B. his heirs and assigns for ever : And lastly, That they the said E. P. and Ann his wife, and their heirs, and all and every other person and persons having or lawfully claiming, or which shall or may have or lawfully claim any estate, right, title, trust, or interest, at law or in equity, of, in, or to the said slave hereby or mentioned or intended to be hereby granted and conveyed, shall and will from time to time, and at all times hereafter, upon every reasonable request, and at the proper costs and charges in the law of the said C. B. his heirs or assigns, make, do, acknowledge, and execute, or cause or procure to be made, done, acknowledged and executed all and every such further and other lawful and reasonable acts, deeds, and things, devices, conveyances, and assurances in the law whatsoever, for the further, better, more perfect and absolute granting, conveying, and assuring of the said slave hereby or mentioned or intended to be hereby granted and conveyed, unto and to the use of him the said C. B. his heirs and assigns for ever, as by the said C. B. his heirs or assigns, or his or their Counsel learned in the law, shall be reasonably advised, or devised and required ; so as such further assurances contain in them no further or other warranty or covenants than against the person or persons, his or their heirs, who shall make or do the same, and so as the party or parties who shall be requested to make such further assurances be not compelled or compellable for making or doing thereof, to go or travel above ten miles from his or their then respective dwellings or places of abode. In witness whereof, the said parties to these presents have

have hereunto set their hands and seals the day and year first above written.

Sealed, delivered, and ac-	W. H. D. (L. S.)
knowledged, this	By his Attorney R. B.
day of 1765,	E. P. (L. S.)
in the presence of	A. P. (L. S.)
L— M— Reg.	C. B. (C. B.)

Received on the day of the date of the within written Indenture of the within named C. B. the sum of of good current and lawful money of the said Island of Antigua, being the full consideration money to be paid to me

E. P.

Witness, L— M—, Reg.

Memorandum, that this day of 1765, before me S— T—, one of the Justices of his Majesty's Court of Common Pleas, held for the said Island of Antigua, personally appeared A. P. party to the within Indenture, who being by me privately and apart examined, declared, that she voluntarily, and of her own free will and consent, executed the within indenture, without any threats, fear, dread, or compulsion, of the said E. P. her husband, certified in my capacity aforesaid, the day and year last above written.

S— T—, Judge.

A FEOFFMENT by the Acting Provost Marshal of Antigua, of several Slaves that were sold by him under Execution, to the highest Bidder at Public Sale.

ANTIGUA.

THIS Indenture, made the day of in the year of our Lord 1765, between Samuel Henry

Henry Warner, Esq; Deputy Provost Marshal of the Island of Antigua, of the one part, and R. F. of the said Island of Antigua, Esq; of the other part. Whereas at a Court of Common Pleas held for the said Island of Antigua, on the 5th day of June, in the year of our Lord 1764, judgment was obtained against J. G. and J. W. of the said Island, merchants, at the suit of J. D. and B. C. of the said Island, merchants, for the sum of 3560*l.* 12*s.* 8*d.* halfpenny, Sterling money of Great Britain, with costs; upon which said judgment execution issued on the 14th day of the said month of June, and was delivered into the hands of the Deputy Provost Marshal at twenty-four minutes after one o'clock of the same day: And whereas also, at a Court of Common Pleas held for the said Island of Antigua on the said 5th day of June, judgment was obtained against the said J. G. at the suit of S. B. and W. W. of the said Island, merchants, for the sum of 3400*l.* Sterling, money of Great Britain, with costs, upon which said judgment execution issued on the 14th day of the same month of June, and was delivered into the hands of the Deputy Provost Marshal, at thirty-eight minutes past one o'clock of the same day: And whereas also at a Court of Common Pleas held for the said Island of Antigua on the said 5th day of June, judgment was obtained against the said J. G. at the suit of A. D. and K. M. of the said Island, merchants, for the sum of 637*l.* 13*s.* 7*d.* halfpenny current gold and silver money of Antigua, with costs, upon which said judgment execution issued on the said 14th day of June, and was delivered into the hands of the Deputy Provost Marshal, at thirty-five minutes after two o'clock of the same day: And whereas also a Court of Common Pleas held

for the said Island of Antigua, on the said 5th day of June, judgment was obtained against the said J. G. at the suit of J. B. of the said Island, Esq; for the sum of 1136l. 2s. Sterling money of Great Britain, with costs; upon which said judgment execution issued on the said 14th day of June, and was delivered into the hands of the Deputy Provost Marshal at eleven minutes after three o'clock of the same day: And whereas also at a Court of Common Pleas held for the said Island of Antigua, on the 3d day of July, in the said year of our Lord 1764, judgment was obtained against the said J. G. at the suit of J. T. senior, B. T. J. T. junior, and J. A. all of the city of London, merchants, for the sum of 4227l. 19s. 8d. Sterling money of Great Britain, with costs; upon which said judgment execution issued on the said 3d day of July, and was delivered into the hands of the Deputy Provost Marshal, at fifty-five minutes after six o'clock in the morning of the same day: And whereas also at a Court of Common Pleas held for the said Island of Antigua, on the 7th day of August, in the said year of our Lord 1764, judgment was obtained against the said J. G. at the suit of J. L. and B. L. for the sum of 178l. 12s. 10d. current gold and silver money of the said Island, with Costs; upon which said judgment execution issued on the same day, and was delivered into the hands of the Deputy Provost Marshal, at thirty-five minutes past nine o'clock of the same day: And whereas also at a Court of Common Pleas held for the said Island of Antigua, on the second day of April, in the year of our Lord 1765, judgment was obtained against the said J. G. at the suit of R. S. the elder, T. S. and R. S. the younger, of the city of London, merchants, for the sum of

5988l.

59881. 1s. 4d. lawful money of Great Britain, with costs; upon which said judgment execution issued on the 5th day of the same month of April, and was delivered into the hands of the Deputy Provost Marshal, at twenty-three minutes past eight o'clock of the same day: And whereas also at a Court of Common Pleas held for the said Island of Antigua, on the said 2d. day of April, judgment was obtained against the said J. G. at the suit of S. R. executor of the Last Will and Testament of J. H. deceased, for the sum of 199l. 14s. good and lawful money of Antigua, with costs; upon which said judgment execution issued on the 20th day of the same month of April, and was delivered into the hands of the Deputy Provost Marshal, at thirty minutes past eleven o'clock of the same day; all which said executions were duly levied upon the following Negro men slaves, *viz.* Low, Hum, Quaw, Tom, Punch, Alarm, Gift, and London; which said slaves were, after proper advertisements and publications for sale thereof, put up to be sold upon the 8th day of May last, upon the Public Parade, in the town of St. John; which said sale was continued to the setting of the sun on the same day, and at sunset thereof the same sale was finished; and the said R. F. was then and there declared to be the best bidder for the said slaves so levied on as aforesaid, he having bid for them as follows, *viz.* for the said Negro man slave named Low, 100l. gold and silver money of the said Island of Antigua; for the said Hum, 101l. like money; for the said Quaw, 62l. like money; for the said Tom, 84l. like money; for the said Punch, 90l. like money; for the said Alarm, 82l. like money; for the said Gift, 61l. like money; and for the said London, 91l. like money; amounting in the

whole to the sum of 671 l. gold and silver money of the said Island of Antigua, as by the said recited judgments remaining of record in the Secretary's Office; and the said recited writs of execution, levy, publication, and sale, all filed in the Marshal's Office of Antigua, or contained in his Office Book, relation being thereto had, may more fully and at large appear. **NOW THEREFORE THIS INDENTURE WITNESSETH,** That as far forth as the said Samuel Henry Warner, by his said Office of Deputy Provost Marshal, can or may do, by virtue of all or any Statutes of Great Britain, or any act or acts, law or laws of the said Island of Antigua, he the said Samuel Henry Warner, for and in consideration of the said sum of 671 l. to him in hand well and truly paid by the said R. F. at or before the sealing and delivery of these presents, the receipt whereof he the said Samuel Henry Warner doth hereby acknowledge, and thereof and of every part thereof, doth acquit and discharge the said R. F. his heirs and assigns for ever, by these presents, hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents doth grant, bargain, and sell, alien, enfeoff, release, and confirm unto the said R. F. his heirs and assigns for ever, the said eight Negro men, slaves of him the said J. G. so levied on and sold as aforesaid; and all such estate, right, title, and interest, both in law and equity, as he the said J. G. hath in them, **TO HAVE AND TO HOLD** all and singular the said slaves so levied on and sold as aforesaid; and all such estate, right, and title and interest both at law and equity, as he the said J. G. hath in them unto the said R. F. his heirs and assigns for ever, to the only proper use and behoof of him the said R. F. his heirs and assigns for ever,
and

and for no other use, intent, or purpose whatsoever, in the most full and ample manner, that he the said Samuel Henry Warner can or may grant and convey the same slaves by virtue of his said Office of Deputy Provost Marshal as aforesaid. In witness whereof, he the said Samuel Henry Warner hath hereunto set his hand and seal the day and year first above written.

Sealed and delivered, &c.

A MORTGAGE of Negroes for Five hundred Years, to secure the Repayment of 256 l. and Interest.

ANTIGUA.

THIS Indenture, made the third day of November, in the year of our Lord 1764, between J. L. of the said Island of Antigua, Gent. of the one part; and R. B. of the said Island of Antigua, Esq; and J. H. of the said Island, Gent. of the other part, witnesseth, That the said J. L. for and in consideration of 256 l. current money of the said Island of Antigua, to him in hand paid by the said R. B. and J. H. at or before the sealing and delivery of these presents, the receipt whereof the said J. L. doth hereby acknowledge, and thereof and of every part and parcel thereof doth freely, clearly, and absolutely acquit, exonerate, and discharge the said R. B. and J. H. their executors, administrators, and assigns, by these presents hath demised, granted, and to farm let, and by these presents, doth demise, grant, and to farm-let, unto the said R. B. and J. H. their executors, administrators, and assigns, as in common, and not as joint tenants, several Negroes following: (that
Negro man slave, named James
man slave, named Isabella; and

woman slave, named Phillis; together with the future issue and increase of the females of the said slaves; and the reversion and reversions, remainder and remainders of the said slaves; and all the estate right, title, interest, property, claim, or demand whatsoever, of him the said J. L. of, in, and to the same slaves, and each and every of them, to have and to hold all and singular the said slaves herein before named, together with the future issue and increase of the females of the said slaves hereby demised, or meant, mentioned, or intended to be hereby demised unto the said R. B. and J. H. their executors, administrators, and assigns, from the date hereof, for and during, and unto the full end and term of five hundred years from hence next ensuing, and fully to be complete and ended, yielding and paying therefore yearly, and every year during the said term, unto the said J. L. his heirs or assigns, the yearly rent of one pepper corn, on the feast of St. Michael the Archangel, if the same shall be lawfully demanded; provided always, and these presents are upon this express condition, that if the said J. L. his heirs, executors, and administrators do and shall well and truly pay, or cause to be paid unto the said R. B. and J. H. their executors, administrators, and assigns, the sum of 256l. current money of the said Island, on or before the 3d day of November, which will be in the year of our Lord 1766, together with lawful interest for the same, at and after the rate of 6l. by the hundred by the year; that then this present Indenture, and every matter, clause, and thing herein contained, shall cease, determine, and be void, and of none effect, to all intents and purposes whatsoever; any thing herein contained to the contrary thereof notwithstanding: And the said J. L. for himself,

9

his

his heirs, executors, and administrators, and for every of them, doth hereby covenant, promise, grant, and agree to and with the said R. B. and J. H. their executors, administrators, and assigns, in manner and form following: that is to say, That he the said J. L. now is true and lawful owner of the said several Negroes hereby demised, or mentioned or intended to be hereby demised, and each and every of them, and is rightfully and absolutely seized of the said Negro slaves, and each and every of them, of a good, sure, absolute, and indefeasible estate of inheritance in fee simple, without any manner of condition, trust, covenant, proviso, or limitation of use or uses, or other restraint, matter, or thing whatsoever, to alter, change, charge, determine, incumber, defeat, or evict the same: And that the said J. L. now hath in himself good right, full power, and lawful and absolute authority to demise all and singular the said several Negroes hereby demised, or mentioned or intended to be hereby demised, as aforesaid, and each and every of them unto the said R. B. and J. H. their executors, administrators, and assigns, in manner and form aforesaid; And also that they the said R. B. and J. H. their executors, administrators, and assigns, shall and may, from time to time, and at all times after default shall be made in payment of the said principal sum of 256 l. current money of the said Island, together with lawful interest thereon, to grow due and payable, peaceably and quietly to take possession of, and have, hold, occupy, and enjoy the said several Negroes before named, together with the future issue and increase of the females of the said Negroes. et. suit,
trouble, hindrance, or
denial of him the said

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either of them, or of any other person or persons lawfully claiming or to claim, by, from, or under him, them, or any or either of them : And it is hereby declared and agreed by and between the said parties to these presents, That in the mean time. and until default shall happen to be made of, or in payment of the said principal sum, or of the interest that shall grow due thereon, it shall and may be lawful to and for the said J. L. his heirs and assigns, peaceably and quietly to have, hold, and enjoy all and singular the said slaves herein before named, and to receive and take the rents and profits of them and every of them, to and for his own use and benefit, without the lawful let, suit, trouble, or interruption of or by the said R. B. and J. H. their executors, administrators, and assigns, or of or by any other person or persons lawfully claiming, or to claim from, by, from or under him, them, or any or either of them. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above-written.

J— L— (L. S.)

Sealed, delivered, and acknow- L— B— (L. S.)
 ledged this 3d day of Novem- J— H— (L. S.)
 ber, 1764, before the
 L— M— Reg.

Received the day of the date of the above written Indenture from the above named R. B. and J. H. the sum of 256l. current money of the the said Island of Antigua, being the full consideration money mentioned to be paid to me

J— L—

Witness, L— M— Reg.

BILL

BILL of SALE of two NEGROES in the Island of St. Christopher, where Negroes are personal Estate, and the Instrument by which they are conveyed, need not be registered.

ST. CHRISTOPHER'S.

KNOW all men by these presents, that I G— C—, of the Island of St. Christopher, Widow and Executrix of the last Will and Testament of T— C—, late of the said Island, Esq; deceased, for and in consideration of the sum of 120*l.* current money of the said Island to me in hand, paid by W— W— of the said Island of St. Christopher, Merchant, at or before the sealing and delivery of these presents, the receipt whereof I do hereby acknowledge, have bargained, sold, released, granted, and confirmed, and by these presents do bargain, sell, release, grant, and confirm unto the said W— W— the two Negro Slaves following: That is to say, a Negro Woman Slave, named Susannah, and a Negro Girl Slave, named P—, daughter of the said S—, to have and to hold the said Slaves, and each of them, by these presents bargained, sold, released, granted, and confirmed, together with the issue and increase of the said Slaves, and each of them hereafter to be born, unto and to the only proper use, benefit, and behoof of the said W— W—, his executors, administrators, and assigns for ever, freely, quietly, peaceably, and intirely, without any contradiction, claim, disturbance, or hindrance of any person whatsoever, and without any account made, answered, or hereafter to be made, that neither I the said G— C— person for me or in my name, or

tive of the said T—— C——, deceased, or otherwise, shall or will at any time or times hereafter exact, challenge, claim, or demand any right, title, or interest of, in, to, or out of the said Slaves hereby bargained and sold, or either of them; or of, in, to, or out of the future issue and increase of the said slaves, or either of them; but that I the said G—— C——, and all persons claiming under me, or under the said T—— C——, deceased, or otherwise howsoever, shall be wholly barred and excluded, by force and virtue of these presents, from all action, right, estate, title, claim, demand, possession, and interest, of, in, to, and out of the said slaves, and each of them, of, in, to, and out of the future issue and increase of the said Slaves, and each of them. And I the said G—— C—— for myself, my executors, and administrators, the said Slaves, and each of them, together with their and each of their future issue and increase unto the said W—— W——, his executors, administrators, and assigns, against me the said G—— C—— my executors, administrators, and assigns, and against the representatives of the said T—— C——, deceased, and all and every other person and persons whatsoever, shall and will warrant, and for ever defend by these presents, of which Slaves I the said G—— C—— have put the said W—— W—— in full possession, by delivering them unto him at the sealing and delivery hereof. In witness whereof, I the said G—— C—— have hereunto put my hand and seal this 25th day of September, in the year of our Lord 1766.

G—— C——. (L. S.)

Sealed and delivered, and
livery and seisin of the
said Slaves, above bargained and sold, deli-

vered by the said G——
C——, delivering the
said Slaves unto the said
W—— W——, in the
presence of us, the day
and year above written.

R—— T——.

R—— S——.

ST. CHRISTOPHER'S.

Received on the day of the date of the above
written Deed Poll, the sum of 120*l*. being the
full consideration money within mentioned, to be
paid to me.

G—— C——.

Witness,

R—— T——.

R—— S——.

MANUMISSION of two NEGROES, with an AFFI-
DAVIT proving the Execution thereof.

ST. CHRISTOPHER'S.

TO all people to whom these presents shall
come, I W—— W—— of the Island of Saint
Christopher, Merchant, do send greeting:—
Whereas G—— C——, late of the said Island of
St. Christopher, Widow and Executrix of the last
Will and Testament of T—— C——, late of
the said Island, Esq; deceased, by deed-poll, or
bargain and sale, bearing date the 25th day
of September, which was in the year of our
Lord 1766, in consideration of 120*l*. current
money of the said Island, did bargain, sell,
release, grant, and confirm unto me the said
W—— W—— the two Negro Slaves following;
that

that is to say, a Negro Woman Slave, named Sufannah, and a Negro Girl Slave, named Penelope, daughter of the said Sufannah; to hold the said Slaves, and each of them, together with the issue and increase of the said Slaves, and each of them thereafter to be born, to the only proper use, benefit, and behoof of me the said W—— W——, my executors, administrators, and assigns for ever, as by the said deed-poll, or bargain and sale, relation being thereunto had, will appear. And whereas the said 120*l.* the consideration money in the said deed-poll mentioned, were the proper monies of the said Sufannah; and I the said W—— W——, the bargainee named in the said recited deed-poll, or bargain and sale, acted merely as a trustee for the said Sufannah, in order that the said Sufannah, and her said daughter Penelope, might be duly manumitted and made free: **NOW THEREFORE KNOW YE**, That I the said W—— W——, in pursuance of the said trust in me reposed, and in discharge thereof, have manumitted, enfranchised, made free, and from every tie of servitude absolved; and by these presents do for myself, my heirs, executors, and administrators, and each and every of them, manumit, enfranchise, make free, and from every tie of servitude absolve the said Negro Woman Slave named Sufannah, and the said Negro Girl Slave named Penelope, respectively; and also the issue and increase of the said Sufannah, and of the said Penelope, and of each of them now born or hereafter to be born, so that neither I the said W—— W——, nor my heirs, executors, or administrators, or any or either of them, shall from thenceforth have, claim, challenge, or demand any right or title, by reason of
any

any slavery or villenage in the said Susannah and the said Penelope, or either of them, or in their or either of their issue, now born or hereafter to be born; but that the said Susannah and the said Penelope, and each of them, their, and each of their issue, now born or hereafter to be born, shall from henceforth for ever hereafter be as free to all intents, constructions, and purposes whatsoever, as any other subject of his Majesty King George the Third. In witness whereof, I the said W—— W—— have hereunto set my hand and seal this 2d day of November, in the year of our Lord 1767.

W—— W——. (L. S.)

Sealed and delivered
in the presence of

J—— M——.
B—— B——.

ST. CHRISTOPHER'S. Before the Honourable
Craister Greatheed, Esq;
Chief Justice of his Majesty's Court of King's Bench and Common Pleas held for the said Island of Saint Christopher.

PERSONALLY appeared J. M. of the parish of Saint George, Basseterre, in the said Island of Saint Christopher, Gentleman, who being duly sworn on the Holy Evangelists of Almighty God, maketh oath and saith, That he this Deponent was present, and did see W. W. of the said Island of Saint Christopher, Merchant, the paper writing or deed-pol' porting to be a deed-
W. W. for the purpose

Woman Slave, named Sufannah, and a Negro Girl Slave, named Penelope) sign, seal, and as his act and deed deliver the said paper-writing or deed-poll : and this Deponent further saith, That the name W. W. appearing to be let or subscribed to the said paper-writing or deed-poll, is of the proper hand-writing of the said W. W. and this Deponent (together with B. B.) did subscribe his name as a witness to the due execution of the said paper-writing or deed-poll : and lastly, this Deponent saith, That the names J. M. and B. B. appearing to be subscribed as witnesses to the due execution of the said paper-writing or deed-poll, are of the respective proper hand-writing of the said B. B. and of him this Deponent.

J. M.

Sworn this day of No-
vember 1767, before me,
C. G.

In every Colony, the execution of a Manumission ought to be proved before one of the Judges, and then registered in the office. In some Colonies, the proper place for registering deeds is the Secretary's Office ; in other Colonies, there is a Register's Office, established by Act of Assembly for that purpose. When the Manumission is registered, the officer will deliver it back, and the person manumitted ought to take great care of it, for in the Colonies every Negro *primâ facie*, is supposed to be a Slave, and the proof of freedom lies on the Negro. I am afraid there have been too many base white men, who, after destroying the Manumission, have endeavoured to enslave those unhappy people. If the Manumission is registered, they are not remediless. I mention these cautions, for the sake of those Negroes

groes who are happy enough to get their freedom.

C H A P. XVII.

Of the Manner of docking Estates Tail, Reversions, and Remainders; and of barring Dower in the Colonies; with Directions for authenticating and registering Deeds there, and Abstracts from several Acts of Assembly relating thereto.

THE mode of conveying real and personal property in the British West India Islands, is similar to that used in England, except that in the Colonies they do not use fines and recoveries; but instead thereof, an Estate Tail, Reversion, or Remainder, is docked, and destroyed by an acknowledgment made before a Judge; and Dower is barred by the private examination of a feme covert, by a Judge who certifies the same on the back of the conveyance. This cheap and concise method of effecting those purposes, is preferable to the tedious and expensive process of fines and recoveries in England. See the 2d Black, Com. 361.

By an Act of Assembly of the Island of Barbadoes, which was passed in the year 1649, and revived in 1661, soon after the Restoration of King Charles the Second, by a law, intituled, "An Act concerning the conveyance of Estates;" which (after reciting that the King's writs did not run there, whereby fines and recoveries could not be there had and levied, as in England, &c.) enacts, "That a Deed made in due form of law and acknowledged within three months after the date of it, before the resident Go-

“ the time being, or a chief Judge of one of the
 “ Courts within the Island, by all the parties that
 “ pass, or grant away, or lease (for above three
 “ years) any freehold or inheritance by such
 “ Deed; or by so many of the parties as shall be
 “ then living; or by any person lawfully autho-
 “ rised by them, under hand and seal to convey
 “ or grant the same, shall be valid to pass the
 “ same, without livery, attornment, or any other
 “ act or ceremony whatsoever, provided such
 “ deed be recorded at length in the Secretary’s
 “ Office of Barbadoes, within three months after
 “ the date thereof; and no deed, without such
 “ acknowledgment and enrollment, shall pass any
 “ estate of freehold or inheritance, or any lease
 “ for more than three years.

“ And if any married woman be minded to
 “ alien her jointure, dower, or other estate of
 “ freehold or inheritance in Barbadoes, whether
 “ it be joint or in severalty, she must convey the
 “ same by writing, under her hand and seal, and
 “ acknowledge it before the Governor, or the
 “ chief Judge of some Court within the Island,
 “ who is to acquaint her what she is to convey by
 “ that writing, and for what estate; and he shall
 “ demand of her, in private, whether she is will-
 “ ing to do the same, and doth it freely and vo-
 “ luntarily, and not for fear, or by reason of any
 “ threats or menaces. And if she then confess,
 “ that she doth it freely, and uncompelled by
 “ fear or otherwise, then her acknowledgment of
 “ the said writing shall be received, and the day
 “ of such acknowledgment, with the Governor or
 “ chief Judge’s name, before whom such ac-
 “ knowledgment was taken, shall be endorsed
 “ and subscribed; and, from thenceforth, such
 “ writing shall become valid and firm against her,

“ and all that shall claim the lands, tenements,
 “ or hereditaments therein mentioned to be
 “ granted for, or under her, or in right of her.

“ And a fine levied in England by a married
 “ woman of her jointure, or title of dower, or
 “ other freehold or inheritance in Barbadoes, be-
 “ ing carried over, and entered on record there,
 “ shall be as valid as if the same were of lands in
 “ England. Immediately after the death of the
 “ husband, the wife (that hath not a jointure
 “ made before coverture in Barbadoes, or else-
 “ where) shall be endowed of one third part of
 “ all the lands, tenements, and hereditaments,
 “ whereof the husband died seised in Barbadoes,
 “ according to the laws of England; and in like
 “ manner as she would have been, if her husband
 “ had died seised of any lands within the king-
 “ dom of England. But she shall be endowed
 “ only of such lands, tenements, or heredita-
 “ ments in Barbadoes, whereof her husband died
 “ actually, and solely seised in fee simple, or fee-
 “ tail general. And by another Act of Assembly
 “ of Barbadoes, made in the year 1670, intituled,
 “ An additional Act to the Act concerning the
 “ Conveyance of Estates,” a man and his wife
 “ of full age, or woman sole, if residing in Eng-
 “ land, Scotland, or Ireland, or any other his
 “ Majesty’s dominions, may, by deed of sale or
 “ other instrument, acknowledged before a Judge
 “ of any Court of Law, Mayor of a City or Cor-
 “ poration, or Chief Governor of an Island or
 “ place where they inhabit, convey away their
 “ land in Barbadoes; in which acknowledgment
 “ the woman must declare her volunt
 “ consent, without threats or se
 “ band; but the deed must
 “ badoes, truly certified;

" Judge, Mayor, Corporation, or Governor, and
 " recorded at length in the Secretary's Office,
 " within twelvemonths next after the acknow-
 " ledgment, and then shall be as effectual to con-
 " vey the land therein contained, as if executed
 " in Barbadoes."

The above recited Acts are inserted at length in the collection of the Acts of Assembly of Barbadoes, printed in the year 1721, and I apprehend are now in force.

By an Act of Assembly of Jamaica, made in the year 1681, intituled, " An Act for registering of Deeds and Patents," it is enacted, That a deed made in due form of law, and acknowledged within three months after the date, by the party or parties that grant the same, or proved by the oath of one sufficient witness, or more, before the Governor, or some one of the Judges of the Courts of Jamaica, and recorded at length in the Office of Enrollments at Saint Jago de la Vega, within three months after the date, shall be valid, without livery, seisin, attornment, or any other act or ceremony in the law whatsoever; and no deed, without such acknowledgment, or proof and enrollment, shall be sufficient to pass away any freehold or inheritance, or to grant any lease for more than three years. And a conveyance made out of Jamaica, if remitted thither, and proved before the Governor or any Judge of the Common Pleas there, as aforesaid; or if personally acknowledged by the grantor, before the Court of the Lord Mayor and Aldermen of the City of London, and attested under the City Seal, and recorded in the said office of Enrollments at St. Jago de la Vega, within six months after the arrival of the ship that brought the same, shall, to all intents and purposes whatsoever, be as valid, as if it had been
 made

made in the Island, and acknowledged, proved, and recorded, according to the form and time before appointed.

By another Act of Assembly of Jamaica, made in the year 1681, intituled, "An Act for prevention of law suits," it is enacted, "That all bills of sale and conveyances whatsoever, thereto-
"fore made, or thereafter to be made by husband and wife, and acknowledged before the
"Judge of any Court of Record within Jamaica, and duly recorded, shall be good and valid in
"law, against all persons whatsoever, that can or may pretend to claim any estate in the lands
"or tenements so conveyed, to all intents and purposes whatsoever, as if the same had passed
"by fine and recovery in his Majesty's Courts of Westminster."

By a third Act of Jamaica, made in the year 1711, intituled, "An Act for the further quieting possessions, and preventing vexatious suits, at law," it is enacted, "That all bills of sale, deeds, and other conveyances whatsoever, at
"any time theretofore made, and duly executed, acknowledged, proved, and recorded, pursuant
"to the true intent and meaning of an Act of Jamaica, intituled, "An Act for prevention of
"law suits," although no valuable consideration
"be respectively inserted; and all deeds and other
"conveyances whatsoever, thereafter to be made
"for valuable consideration, of any lands, tenements, negroes, and hereditaments within Ja-
"maica (excepting such as have been or shall
"be made by infants during their infancy, and
"persons of nonsane memory, during the time
"they continue so), such lands, tenements, ne-
"groes, and hereditaments, are thereby enacted
"and decl

to be conveyed by
"the

"the same as fully, to all intents and purposes;
 "of any real estate in the kingdom of Great Bri-
 "tain *might or could pass*, by fine and recovery, in
 "his Majesty's Court of Common Pleas in West-
 "minster Hall."

By a fourth Act of Assembly of the Island of
 Jamaica, passed in the year 1731, "The record
 "of any deeds duly executed (and proved or ac-
 "knowledged) and enrolled in the office of en-
 "rollments; and the record or enrollment of any
 "last wills and testaments duly executed accord-
 "ing to law, and proved before the Governor,
 "or Commander in Chief, by one or more of the
 "subscribing witnesses thereto, shall be sufficient
 "evidence of the titles to any lands, tenements,
 "negroes, hereditaments, or estate whatsoever,
 "real or personal, claimed under such deeds,
 "conveyances, or wills; and shall be read and
 "allowed in all courts of law and equity in Ja-
 "maica, as if the originals were produced,
 "proved, and read.

"And the exemplification of all wills made in
 "Great Britain or Ireland, or any other of his
 "Majesty's Colonies or Dominions, and sent to
 "Jamaica, attested as such (after probate thereof
 "made according to law, in the said several do-
 "minions and Colonies respectively) under the
 "seal of the Prerogative Court of Canterbury, or
 "under the seal of the Archbishop or Lord
 "Mayor of Dublin, or any other Archbishops in
 "their respective dioceses in England or Ireland,
 "or the Mayor, Provosts, or Bailiffs of any Cor-
 "poration, or Body Politic, or under the seal of
 "any of the said Dominions or Colonies respec-
 "tively, and afterwards recorded or enrolled in
 "Jamaica, shall be good and sufficient evidence
 "in all courts of law and equity there.

" But

“ But all deeds executed in Jamaica, of any
 “ lands, tenements, negroes, or hereditaments
 “ whatsoever, must be duly proved or acknow-
 “ ledged, and recorded within ninety days after
 “ the date thereof, and if executed out of Ja-
 “ maica, they must be duly proved or acknow-
 “ ledged, and recorded or enrolled in the office
 “ of enrollments in Jamaica, within six calendar
 “ months after the date, and within ninety days
 “ after the arrival of the ship that carries them
 “ to Jamaica, otherwise they are void against
 “ other purchasers or mortgagees *bona fide*, for
 “ valuable consideration; but good against the
 “ vendor or mortgagor, and his heirs, in case
 “ they are proved and recorded, or enrolled be-
 “ fore a second conveyance.”

The above in part recited Acts, are inserted at full length in the collection of the Acts of Assembly of Jamaica, printed in the year 1738; and I apprehend are now in force. I speak with diffidence of Jamaica and Barbadoes, as I have not the last editions of their laws, and I never was in either of those Islands.

But when the Leeward Charibbee Islands (where I resided several years) had but one Council and Assembly, an Act was passed at Nevis, in the year 1705 (which was the 4th of Queen Anne) by the Commander in Chief of the Leeward Charibbee Islands in America, and the General Council and General Assembly of those Islands, which enacts, “ That a deed or deeds, in
 “ due form of law, made and executed by the
 “ husband and wife, of the plantations, lands,
 “ and tenements, negroes, and other heredita-
 “ ments of the wife, or of any plantations, lands,
 “ and tenements, Negroes, and other heredita-
 “ ments, whereof the husband was solely and in
 “ his own right seised, at any time during the

"coverture; or whereof the husband or husbands,
 "and wife were seised, in right of the wife, or
 "the husband jointly with the wife, or by tenant
 "in tail general or special, and by the party or
 "parties, and each of them, from whom the in-
 "terest passes, acknowledged before some of her
 "Majesty's Justices of the Court of Common
 "Pleas in the kingdom of England or Ireland,
 "or of any of her Majesty's Leeward Charibbee
 "Islands, wherein such plantation, lands, tene-
 "ments, negroes, and other hereditaments do
 "lie, shall to all intents and purposes be as ef-
 "fectual and valid in the law, to pass all the
 "estate, right, title, interest, and claim of the
 "party or parties, and of each of them, to such
 "deed or deeds, in or to all, or any the planta-
 "tion or plantations, lands, tenements, negroes,
 "or other hereditaments, by such deed or deeds
 "granted, conveyed, or made over, or thereby
 "intended to be granted, conveyed, or made
 "over, to the person or persons, bargainee
 "or bargainees, grantee or grantees, in the
 "said deed or deeds mentioned, their heirs
 "and assigns for ever; to whom, or to whose use,
 "any estate in such plantation or plantations,
 "lands, tenements, negroes, or other heredita-
 "ments, is by the said deed or deeds limited,
 "bargained, sold, granted, or conveyed, ac-
 "cording to the several limitations in the said
 "deed or deeds contained, as if the party or
 "parties to the said deed or deeds from whom
 "the interest moves, had levied a fine or fines
 "with proclamations, or suffered a common re-
 "covery or recoveries of such plantation or plant-
 "ations, lands, tenements, negroes, and other
 "hereditaments, in any of her Majesty's Courts
 "of Record at Westminster, and duly executed
 "deeds, leading the uses of such fine or fines, or
 "declaring

“ declaring the uses of such recovery or recover-
 “ ries, to be to such bargainee or bargainees,
 “ grantee or grantees, their heirs and assigns for
 “ ever, to whom, or to whose use, such planta-
 “ tion or plantations, lands, tenements, negroes,
 “ and other hereditaments, are by the deed or
 “ deeds so to be executed and acknowledged,
 “ as is abovementioned, limited, and conveyed;
 “ or that the same, and every part thereof, had
 “ been bargained, sold, conveyed, or set over,
 “ by any the firmest deed or deeds, conveyance
 “ or conveyances, assurance or assurances in the
 “ law, that could be advised or devised by Coun-
 “ sel learned in the law.

“ Sect. 4. Provided that the wife, who is party
 “ to any such deed or deeds, be of full age at the
 “ time of the execution thereof, and be privately
 “ and apart examined by the Judge before
 “ whom such deed or deeds is acknowledged,
 “ whether she do execute the same freely, vo-
 “ luntarily, and without fear, threats, or com-
 “ pulsion, of or by her husband used; which exa-
 “ mination of the wife shall be indorsed, together
 “ with the acknowledgment of the party or par-
 “ ties, from whom the interest by the said deed
 “ or deeds pass; and such acknowledgments shall
 “ be subscribed by the Judge, before whom the
 “ acknowledgments of such deed or deeds is
 “ taken, and by and before whom such wife is
 “ privately examined.

“ Sect. 5. And that all, and every deed or
 “ deeds so executed and acknowledged as afore-
 “ said, shall be enrolled at length in the Secre-
 “ tary's or Register's Office of that Island,
 “ wherein the estate so granted or conveyed lies
 “ (if the said deed or deeds be executed and ac-

“knowned in any of these her Majesty’s Leeward Charibbee Islands), within six calendar months after the acknowledgment of such deed or deeds; and in case the said deed or deeds shall be executed and acknowledged within either of her Majesty’s kingdoms of England or Ireland, that the same shall be enrolled at length in the High Court of Chancery of that kingdom, wherein the same was executed and acknowledged, within six calendar months after the acknowledgment thereof; and that the acknowledgment of such deed or deeds so subscribed by the Judge before whom the same was taken (as before is directed), shall be a sufficient proof of the due execution of the said deed or deeds; and the record, or an exemplification or attested copy of such deed or deeds, shall be admitted and allowed to be given in evidence, upon any trial at law, or hearing in equity, where the original deed or deeds is or are mislaid, and cannot be produced.”

This Act of Assembly is now in force in Antigua, Montserrat, Nevis, and St. Christopher’s; and is the law by which they regulate their proceedings in such cases.

By an Act of Assembly of Antigua, passed the 13th of April 1668, a Register’s Office is established, and all patents, deeds of sale, leases of land, and mortgages, must be recorded therein at large. By another Act of Assembly of Antigua, passed the 9th of January 1676, “for confirming the inhabitants titles to their lands,” all deeds and conveyances of and relating to lands in Antigua, if made by such as are resident in the Island, must be enrolled and recorded in the Register’s Office, within twenty days after the execution

cution of them; and if made in Europe, must be inrolled, &c. within one year after execution, or else shall be utterly void.

By another Act of Assembly of Antigua, passed the 3d of November 1698, "For the better regulation and settlement of the Register's Office," no conveyance of lands is good, unless acknowledged by the vendor, donor, lessor, or other person conveying or transferring the same (or by some person lawfully empowered to acknowledge the same before the Register or his Deputy) which acknowledgment must be indorsed on the back of the conveyance, with the day of the month and year of our Lord, in words at large, and afterwards signed by the Register or his Deputy, who is to enter the same at large in a book kept for that purpose, before he parts with it out of his office; and the time of the acknowledgment is deemed to be the time of the entry or registry thereof.

No will, whereby any estate in lands is devised, shall be evidence in law or equity, unless proved before the Governor in Chief, Lieutenant, or Deputy Governor, President of the Council, or other person, having the power to take probate of wills, and entered at large in the Register's Office; and copies of all deeds, wills, &c. entered in the Register's Office, and attested by him, are as good evidence in any Court, as if the originals were there exhibited; and the recording a deed in the Register's Office, is equal to livery and seisin. And by another Act of Assembly of Antigua, passed the 28th day of July 1764, intituled, "An Act for the supplying the several defects in the laws of that Island, concerning conveyances and assurances of lands, tenements, slaves, and other freeholds and inherit-

"ances, lying and being in Antigua, and the
 "Islands thereto adjacent and belonging; and
 "for making the probate of the execution of
 "deeds in parts beyond seas, relating to such
 "lands, tenements, slaves, and other freeholds
 "and inheritances effectual, without an acknow-
 "ledgment thereof before the Register of that
 "Island or his Deputy :". It is enacted, that all
 deeds, conveyances, and assurances, which shall
 be executed in any parts beyond the seas, of and
 concerning lands, tenements, slaves, rents, and
 other freeholds and inheritances, lying and being
 in Antigua, or the Islands adjacent and thereto
 belonging, shall be good and effectual to pass
 estates and interests, rights and titles, of and in
 such lands, tenements, slaves, rents, and other
 freeholds and inheritances in Antigua, or the
 Islands thereto adjacent and belonging, ac-
 cording to the purport, words, and lawful inten-
 tion of the same deeds, without livery or seisin,
 or attornment. It being thereby declared, that
 livery of seisin or attornment, were never required
 in any such deeds, by the constant usage, laws,
 and practice of Antigua; and that all and every
 such deeds, conveyances, and assurances, having
 sufficient words to pass the fee simple of such
 lands, tenements, slaves, rents, and other free-
 holds and inheritances, and duly recorded as the
 laws of Antigua direct and require, shall be to all
 intents and purposes as effectual to bar, discon-
 tinue, dock, extinguish, cut off, and destroy all
 estates tail, rights to estates tail, remainders,
 vested and contingent, and all reversions, rights,
 charges, powers, and authorities, dowers and
 thirds estates, and rights of females covert, of and
 in, touching and concerning all and every such
 lands, tenements, slaves, rents, and other free-
 holds

holds and inheritances as a fine with Proclamations, according to the laws of that part of Great Britain called England, duly levied in the Court of Common Pleas at Westminster, or a common recovery suffered with due execution, returned and made in the same Court of Common Pleas at Westminster, or both, such fine and recovery, with deeds properly executed, to lead and declare the uses of both, or either, such fine and recovery are or is by law in that part of Great Britain called England, of, for, touching and concerning lands, tenements, rents, and other freeholds and inheritances lying and being in that part of Great Britain called England, and all rights, charges, powers, authorities, touching and concerning the same, so always that all parties so granting, conveying, or passing, shall be of full age of one and twenty years: PROVIDED ALWAYS, That all deeds, conveyances, and assurances, bargains and agreements, of and concerning lands, tenements, slaves, rents, and other freeholds and inheritances, lying and being in Antigua, or the Islands adjacent and thereto belonging, executed in any part of his Majesty's dominions in Europe or elsewhere (except Antigua), or any other place of the world not belonging to or under the Crown of Great Britain, shall be inrolled, registered, and recorded in the Register's Office of Antigua, within two years after the execution thereof: and provided also, That wherever any estates tail, rights to estates tail, remainders vested or contingent, reversions, rights, charges, powers and authorities, dowers and thirds-estates, and rights of femes covert, are to be barred, discontinued, docked, extinguished, cut off, or destroyed, that the deed or deeds so passing or conveying, if executed in that

part of Great Britain called England, or in Ireland, shall in all respects be executed and acknowledged by the party and parties granting and conveying, and married women be thereon privately examined, and be certified, inrolled, and registered, as directed and required in and by a certain general Act of the Leeward Charibbee Islands in America, made at Nevis, intituled, *An Act for the supplying the want of fines and recoveries in these Islands, and for making any deed or deeds duly executed and acknowledged before any of her Majesty's Justices of the Court of Common Pleas in the kingdom of England or Ireland, or of any of these Islands, equivalent to a fine and recovery, or fines and recoveries, duly and regularly levied and suffered in any of her Majesty's Courts of Record at Westminster, dated in Nevis the 21st day of June, Anno Domini 1705, and in the fourth year of her late Majesty's reign*: and if executed in Antigua, to be also acknowledged by the party and parties granting and conveying, and married women thereon privately examined, and be certified and registered as the particular laws and acts of Antigua do require; and if executed in that part of Great Britain called Scotland, then to be acknowledged by such parties granting and conveying, and married women to be privately examined before one of the Lords of Session, or any Sheriffs of any County or Stewarty, and such acknowledgment and examination, with the name of the place, and day and year of our Lord, or the King's reign, shall be certified upon the same deed and deeds, under the hand and seal of such Lord of Session, or such Sheriff, and if executed in Barbadoes, or in any of the Leeward Charibbee Islands in America, or in any other Colony, territory, or dominion, in Europe, Asia, Africa,

or

or America, belonging or to belong to the Crown of Great Britain, then to be acknowledged by such parties, and married women to be privately thereon examined, before some Judge of his Majesty's Court of Common Pleas, or of some other Court of Record, or where no such Court of Common Pleas, or other such Court of Record is established, then before the person who shall exercise and execute the chief Command there, and such acknowledgment and examination, with the name of the place, and day and year of our Lord, or the King's reign, shall be certified upon the same deed and deeds, under the hand and seal of such Judge or Commanding Officer, and if the same shall be executed in any foreign kingdom, territory, Colony, or place in the world, not belonging to, or under the dominion of the Crown of Great Britain, then such acknowledgment and examination, if taken in Europe, shall be taken before the Chief Officer of, and shall be certified under the public Seal of some City or Town corporate, or City or Town being in nature of a Corporation, having a public Chief Officer, and using a public Seal, in any part of Europe; and if such acknowledgment and examination shall be taken in any foreign Colony in Asia, Africa, or America, the same shall be taken before the person there in chief command, and be certified under his hand, and such Seal as such person there in chief command shall use as his public Seal; and touching and concerning the proof, and further authenticating such deeds and conveyances, it is enacted, That no such deeds, conveyances, or assurances, executed any where but sea, out of Antigua, shall be pleadable in law or equity, or given or admitted to be proved in evidence in law or equity, until the fi

the acknowledgment, examination, and certificate thereon, shall be all recorded at length in the Register's Office by law appointed, or to be appointed, in Antigua, for registering deeds relating to lands in Antigua, and that where any such deed shall be produced, in any such manner as aforesaid acknowledged and certified, the same, without any further acknowledgment or proof, shall be received and recorded in the said Register's Office of Antigua; and after being so recorded, shall need no further proof, but be admitted as evidence in law and equity, and copies attested from the said Office of all such deeds, shall be as good evidence as allowed and practised with relation to copies of deeds there registered in other cases in law and equity in Antigua, and shall have priority as in other cases directed; and the very day and year of our Lord, in words at length, when such deeds respectively first shall be brought to the said Register's Office to be recorded, shall be truly and immediately indorsed on such deeds, and attested under the hand of the Register, or his Deputy executing the said Office, and shall be duly registered and entered in the said Office, with the respective deed, and such time when such deeds shall be first brought to the Register's Office to be recorded, shall be deemed, esteemed, and taken to be the time of the entry or registry thereof.

By an Act of Assembly of the Island of Saint Christopher, made in the year 1727 (with a clause suspending the execution thereof until his then Majesty declared his Royal assent thereto, and which Act was confirmed by the King in 1728), intituled, "An Act against covinous and fraudulent conveyances, and for a public Registry in the
Island

Island of St. Christopher," an Office is established to be kept in the Town of Basseterre in the said Island of St. Christopher, for entering and registering all deeds and conveyances, gifts, grants, and assurances, wills, and devises in writing, whereby any messuages, lands, tenements, hereditaments, negroes, or other slaves whatsoever in St. Christopher's may be any way affected in law or in equity; by that Act, all such conveyances, if executed in St. Christopher's, are to be entered and registered in the Register's Office, within three calendar months after the execution thereof, and if executed beyond the seas, then within two years after the execution thereof, otherwise they are to be adjudged fraudulent and void against subsequent purchasers, for a valuable consideration, who registered their conveyances before them.

And all wills are to be registered within three calendar months after the death of the devisor or testator, if he died in St. Christopher's, and within two years if he died beyond the seas. And every devise of lands, negroes, &c. registered after those times respectively, are to be fraudulent and void against subsequent purchasers, for valuable consideration.

A second mortgage or sale, if executed in St. Christopher's, is to be registered in one calendar month after execution, and if executed beyond the seas, within one year after execution.

All gifts and grants of Negroes, and other slaves, in consideration of blood or natural affection, are declared void, unless put into writing, and registered within such times as other conveyances are directed to be registered.

The Register is to indorse a certificate on every conveyance and will, mentioning the day, hor

and time when entered and registered, and the same is to be allowed as evidence of such registries in all Courts of Record in St. Christopher's. This Act was explained and amended in some particulars by another made the 21st of June 1758, which recites it, and then enacts, That all Letters Patent, bargains, sales, feoffments, grants, mortgages, and other conveyances whatsoever, of lands, tenements, hereditaments, Negroes, and other slaves in St. Christopher's, shall be adjudged fraudulent against any subsequent purchaser or mortgagee, for valuable consideration, unless such conveyances are registered in the Office before the registering the deed or conveyance under which such subsequent purchaser or mortgagee claims; but all such conveyances, whether absolute or conditional, which are entered and registered in the Register's Office, after the expiration of the time limited in the Act for registering them, are as valid and effectual against the grantors, mortgagors, and other persons therein named, only from whom the interest passes, as if entered and registered within the times limited by the recited Act; however, such conveyances shall not destroy or weaken any right, title, or interest to any lands, Negroes, &c. therein mentioned, which any persons claim under any subsequent conveyance, which was duly entered and registered within the time limited by the recited Act; and where any original will or conveyance, duly entered and registered, pursuant to the Act, and attested by the Register or his Deputy, is proved on oath to be lost or mislaid, a copy thereof, under the hand of the Register or his Deputy, is as good evidence in all the Courts of St. Christopher's, as if the original was exhibited.

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I have not the laws of Nevis by me, but if I am not mistaken, their Register's Act is similar to those of St. Christopher's.

The edition of the laws of Montserrat, which I have, comes no lower than the year 1740. I find no Registers Act in it but in the year 1669. There was an Act of Assembly passed with a very extraordinary clause, which enacted, That all writings made upon the Island by the inhabitants, except only bills, obligations, or acquittances, that were not made in the Secretary's Office of that Island, by him or his Substitute, or by his allowance, should be of no effect, and the parties who presumed to draw them were liable to be fined, as the Governor should see convenient. I make no doubt but that this law has been long obsolete. I was at Montserrat two several times for weeks together on visits, and I well remember they had a law which required, that all sales of Negroes (except those sold in a Guinea-yard), should be in writing, and registered in the Secretary's Office. I also know, that all conveyances of land there must be registered, but whether that is done in consequence of an Act of Assembly of Montserrat, made for that purpose, or of the above mentioned Act of the Leeward Charibbee Islands, made in the year 1705, for the supplying the want of fines and recoveries, &c. I cannot take upon me to say.

Soon after Legislatures were established in the ceded Islands, they passed Acts of Assembly there, for supplying the want of fines and recoveries, and for registering conveyances. I have not the Acts by me, but I apprehend their Acts for supplying the want of fines and recoveries, were chiefly copied from that of the Leeward Charibbee Islands, and those for registering con-

from the laws of Antigua, the legal Constitution of which Island they affected to adopt in most instances, as there were many adventurers from Antigua who settled in the ceded Islands, and amongst them some Gentlemen of the profession of the law.

Plantations in the Sugar Islands being of great value, the deeds conveying them are generally settled with good advice; and many of them are drawn by able conveyancers in England. But the lands in the Colonies on the Continent, being of much less value, the deeds (before the Civil War) were generally drawn in a slovenly manner; and in the Southern Provinces on the Continent they were so inaccurate, that they did not even annex their deeds properly; for in common sense, where a deed consists of several skins of parchment, or sheets of paper, which are annexed at the bottom, the first skin or sheet, which begins with "This Indenture, &c." should be on the outside, and the last sheet, which concludes with "In witness, &c." should be next to the seals: but in Carolina and Georgia, they frequently reversed the natural order of the skins or sheets; and on opening a deed, the first sheet, which began with "This Indenture, &c." was in front, and came next to the seals.

Fines are frequently levied in the Court of Common Pleas in Westminster Hall, of lands lying in the West Indies, by supposing the Island in which the lands lie to be in some Parish and County in England; see 1. Barnes's Notes, 146. Wilson on Fines, 57. When I was in the West Indies, a Gentleman at Nevis had a mortgage on an estate there, for a considerable sum of money, which estate was claimed by a man as tenant in tail: on looking over the mortgagee's papers, the
Chirograph

Chirograph or Indenture of a Fine of the lands, in Latin, was discovered, by which means he saved his principal and interest.

In South Carolina they have an Act of Assembly, which enumerates what English statutes shall be in force there, the statute of Westminster 2. the 13 Ed. 1. c. 1. (commonly called the statute *de Donis*), not being enumerated in that Act of Assembly, is not in force in that Province; and therefore, all estates there are fee-simple, conditional at Common Law; but their conveyances frequently have such terms in them, as are applicable only to estates tail, which is absurd.

The Constitution of the State of Georgia now directs, that an estate shall not be entailed.

But (before the Civil War), the private examination of a feme covert, in order to bar dower, was entered on a sheet of paper separate from the deed, and then signed by the Chief Justice of the Province, or the Assistant Judge who took it. It was then carried to the Office of the Prothonotary of the General (or Superior Common Law Court), who put the Seal of the Court to it. The private examination was then entered on Record in the Prothonotary's Office, and afterwards returned to the purchaser or mortgagee. If the feme covert lived at a distance from the seat of government, a *Dedimus Potestatem* issued to Commissioners, to take her private examination, and they returned the *Dedimus*, with the private examination annexed, which were both registered in the Prothonotary's Office. The *Dedimus Potestatem* was issued from the Prothonotary's Office and tested by the Chief Justice.—I apprehend practice in such cases was exactly the same in S Carolina, and all the other Southern Provi

C H A P. XVIII.

CONVEYANCES of LANDS and NEGROES in Barbadoes, Antigua, St. Christopher's, and Jamaica.—

A CONVEYANCE by Lease and Release of Lands in Barbadoes, with the POWER of ATTORNEY, &c. this being the Release.

THIS Indenture, made the 20th day of July, *anno Domini* 1728, and in the second year of the reign of our Sovereign Lord King George the Second, &c. between Sir Abel Ash of Bardon, in the county of Cornwall, Bart. eldest surviving son and heir of Sir David Ash late of the same place, Bart. and of Dame Eliza Ash, his late wife, both deceased, and also brother and heir of Sir David Ash, late of the same place, Bart. also deceased, who, whilst living, was eldest son and heir of the said Sir David Ash the father, and of the said Dame Eliza, of the one part; and Francis Ash of Bardon aforesaid, Esquire, younger brother of the said Sir Abel Ash, and Gilbert Gill and Henry Hart, both of the Island of Barbadoes in America, Esquires, of the other part. Whereas the said Sir David Ash the father, in and by his Last Will and Testament in writing, by him duly published, bearing date on or before the 10th day of April 1716, did (among other things) give to his then wife, the said Dame Eliza Ash, her heirs, executors, and assigns, all his Plantations, houses, buildings, mills, Negroes, and all other his real and personal estate whatsoever in the said Island of Barbadoes upon trust, to sell and dispose of the same, and every

every of them, as soon as conveniently might be after his decease; and, with the money arising by sale or sales thereof, in the first place to pay all his just debts, and afterwards the legacies and sums of money in his said Will mentioned and expressed; and if his said then wife should die before the several estates were sold that were devised to her for that purpose, then the said testator gave such of those estates as remained unsold at her death, to the said Sir David Ash his eldest son, then David Ash, Esq; his heirs, executors, and assigns, to be by him or them sold for the performance of his said Will; and the said Sir David Ash the testator, did thereby constitute the said Dame Eliza, his then wife, sole executrix of his said Will: And whereas the said Dame Eliza Ash died intestate soon after the death of the said Sir David Ash her late husband, and before she had proved his said Will, or sold or disposed of the said trust-estate and premises, or any part thereof, and soon after her decease Letters of Administration of her goods and chattels, and also Letters of Administration of the goods and chattels of the said Sir David Ash the father, with his said Will annexed, were granted by the Prerogative Court of Canterbury unto the said David Ash the son, who some years since also departed this life without issue, and without having sold or disposed of the said trust-estate and premises, or any part thereof, upon whose decease the said trust-estate and premises descended, or otherwise legally came to and vested in the said Sir Abel Ash, upon the trust, and for the purposes aforesaid, and the said Sir Abel Ash, soon after the decease of the said Sir David Ash, obtained Letters of Administration out of the said Prerogative Court of Canterbury of the goods and chattels,

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with the Will annexed of the said Sir David Ash, the father, unadministered by the said Sir David Ash the son; and also Letters of Administration of the goods and chattels of the said Dame Eliza Ash, unadministered as aforesaid: And whereas the said Francis Ash hath contracted and agreed with the said Sir Abel Ash for the absolute purchase of the messuages, buildings, Plantations, lands, Negroes, and other hereditaments herein after mentioned, to be hereby granted and released, being part and parcel of the said trust-estate, and premises so given to the said Dame Eliza Ash in trust, to be sold as aforesaid; and also of all the crop of sugars and other the produce of or upon the same Plantation, lands, and premises, or which hath arisen from, or been produced upon the same premises, or any part thereof, from and after the Feast of St. Michael the Archangel last past, before the date hereof, for the sum or price of 10,000 l. of lawful money of Great Britain. NOW THIS INDENTURE WITNESSETH, That in pursuance and performance of the said recited agreement, and for and in consideration of the sum of 10,000 l. of lawful money of Great Britain to the said Sir Abel Ash, in hand, well and truly paid by the said Francis Ash, at or before the enfealing and delivery of these presents, to be by him the said Sir Abel Ash applied and disposed of for the purposes in the said recited Will in that behalf mentioned and directed, the receipt and payment of which said sum of 10,000 l. he the said Sir Abel Ash doth hereby acknowledge, and thereof, and of every part thereof, doth acquit, release, and discharge the said Francis Ash, his heirs, executors, administrators, and assigns, and every of them, for ever, by these presents; and in consideration of the sum of 5s.

of like money to the said Sir Abel Ash, in hand paid by the said Gilbert Gill and Henry Hart, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged: he the said Sir Abel Ash hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, and confirm unto the said Francis Ash, Gilbert Gill, and Henry Hart, and the heirs and assigns of the said Francis Ash, all that the Upper Plantation land or ground of him the said Sir Abel Ash, commonly called or known by the name of Jag Hall, situate, lying, and being in the parish of Knowt, in the said Island of Barbadoes, and containing by estimation three hundred and ninety-six acres, or thereabouts, be the same more or less; and also all messuages, tenements, edifices, erections, buildings, houses, store-houses, sugar-houses, boiling-houses, curing-houses, still-houses, mills and kilns, erected, built, standing, or being; or to be erected, built, standing, or being in or upon the said Plantation, land, ground, hereditaments, and premises, every or any part thereof, with their and every of their rights, privileges, members, and appurtenances; and also all Negroes and slaves, men and women, and children, and the increase and progeny of the same Negroes and slaves; and also all horses, cows, oxen, sheep, and other cattle whatsoever; and all coppers, stews, ladles, skimmers, potting basons, sugar-pots, stills, still-heads, worms, worm-tubs, coolers, cisterns, Plantation tools, and all other implements, goods and chattels whatsoever, to the said messuages, buildings, Plantation, land, ground, hereditaments, and premises hereby or mentioned and intended to be hereby granted and released, every or any of them, or any part thereof, be-

longing or in any wise appertaining, or with them or any of them used, occupied, possessed, or enjoyed; and also other the messuages, buildings, lands, ground, and hereditaments whatsoever, of him the said Sir Abel Ash, situate, lying, or being in the said parish of Knowt, in the said Island of Barbadoes, with their and every of their appurtenances (except and always reserved out of these presents, and the grant or conveyance hereby made or intended to be made, all that small slip or parcel of ground of him the said Sir Abel Ash, lying and being in the said parish of Knowt, but being part of and used and enjoyed with the lower Plantation, lying in the parish of Loke, in the said Island of Barbadoes, and all erections, buildings, hereditaments, Plantations, tools, implements and appurtenances whatsoever, upon the said excepted small slip or parcel of ground, or any part thereof, now being thereunto belonging or appertaining, or therewith used or enjoyed), all which said messuages, buildings, Plantation, lands, grounds, Negroes, slaves, cattle, utensils, hereditaments, and other the premises hereby or mentioned or intended to be hereby granted and released (except before excepted), are now in the actual possession of the said Francis Ash, Gilbert Gill, and Henry Hart, by virtue of a bargain and sale to them thereof, made by the said Sir Abel Ash for the term of one whole year, in consideration of 5 s. to him paid by the said Francis Ash, Gilbert Gill, and Henry Hart, in and by one Indenture, bearing date the day next before the day of the date hereof, and by force of the Statute for transferring uses into possession, made and provided; and the reversion and reversions, remainder and remainders, rents, issues, and profits, and produce thereof, and of every part and

and parcel thereof; and also all the estate; right, title, interest, trust, property, claim, and demand whatsoever, both at law and in equity of him the said Abel Ash, of, into, or out of the said messuages, buildings, Plantation lands, grounds, Negroes, slaves, cattle, utensils, hereditaments, and other the premises hereby or mentioned or intended to be hereby granted and released, or any of them, or any part or parcel thereof (except before excepted); and also all deeds, evidences, writings, and records whatsoever, touching, or in any wise concerning the same premises, or any part thereof, which he the said Sir Abel Ash now hath in his custody, or can come by without suit in law, **TO HAVE AND TO HOLD** the said messuages, buildings, Plantations, lands, grounds, Negroes, slaves, cattle, utensils, hereditaments, and all and singular other the premises hereby or mentioned or intended to be hereby granted and released, with their and every of their appurtenances (except before excepted) unto the said Francis Ash, Gilbert Gill, and Henry Hart, and the heirs and assigns of the said Francis Ash, to the use and behoof of them the said Francis Ash, Gilbert Gill, and Henry Hart, and of the heirs and assigns of the said Francis Ash for ever; in trust as to the estate of the said Gilbert Gill and Henry Hart, for and for the only benefit of the said Francis Ash, and of his heirs and assigns for ever, and to, for, or upon no other use, trust, intent, or purpose whatsoever; and the said Sir Abel Ash doth hereby, for himself, his heirs, executors, and administrators, covenant, promise, grant, and agree to and with the said Francis Ash, his heirs and assigns, in manner following; that is to say, That (for and notwithstanding any Act, matter, or

thing whatsoever by him the said Sir Abel Ash, or by the said Sir David Ash his late brother, or by the said Sir David Ash his late father, and Dame Eliza his late wife, mother of him the said Sir Abel Ash, or by Sir David Ash, Bart. his late grandfather deceased, or any of them, done, committed, or wittingly or willingly suffered to the contrary) he the said Sir Abel Ash now is and standeth lawfully, rightfully, and absolutely seized of and in the said messuages, buildings, Plantation, lands, grounds, Negroes, slaves, utensils, hereditaments, and premises hereby or mentioned or intended to be hereby granted and released of a good, sure, lawful, absolute, and indefeasible estate of inheritance in fee simple, to him and his heirs, without any reversion, remainder, trust, limitation, power of revocation, use or uses, or other matter, restraint, or thing whatsoever, to alter, change, charge, revoke, make void, lessen, incumber, or determine the same: And also that he the said Sir Abel Ash, for and notwithstanding any such Act, matter, or thing as aforesaid, hath, at the time of the sealing and delivery of these presents, in himself good right, full power, and lawful and absolute authority to grant and convey the said messuages, buildings, Plantation, lands, ground, and Negroes, slaves, utensils, hereditaments, and premises hereby mentioned or intended to be hereby granted and released, with their appurtenances, unto and to the use of the said Francis Ash, Gilbert Gill, and Henry Hart, and the heirs and assigns of the said Francis Ash, in manner aforesaid, and according to the purport, true intent and meaning of these presents; and further, that it shall and may be lawful to and for the said Francis Ash, his heirs and assigns, from time to time, and at all times hereafter, peaceably

peaceably and quietly to enter into, have, hold, occupy, possess, and enjoy the same messuages, buildings, Plantation, lands, grounds, Negroes, slaves, utensils, hereditaments, and premises hereby or mentioned or intended to be hereby granted and released, and to receive and take the rents, profits, crop, and produce thereof, and of every part thereof, from and after the said feast of St. Michael the Archangel last past, before the date hereof, to and for his and their own use and benefit, without the lawful let, suit, trouble, denial, eviction, or interruption, of or by the said Sir Abel Ash, his heirs or assigns, or of or by any other person or persons lawfully claiming, or to claim any estate, right, title, trust, or interest at law or in equity, of, in, to, or out of the said hereby, or mentioned or intended to be hereby, granted and released messuages, buildings, Plantation, lands, grounds, negroes, slaves, utensils, hereditaments, and premises, or any of them, or any part or parcel thereof, from, by, or under, or in trust for him, them, or any of them, or from, by, or under the said Sir David Ash, his late brother Sir David Ash and Dame Eliza Ash, his late father and mother, and Sir David Ash his late grandfather, or any of them, and that free and clear, and freely and clearly acquitted, exonerated and discharged, or otherwise, by the said Sir Abel Ash, his heirs, executors, and administrators, well and sufficiently saved, defended, and kept harmless and indemnified of, from, and against all and all manner of former and other gifts, grants, bargains, sales, leases, mortgages, jointures, dowers, uses, trusts, wills, entails, statutes, recognizances, judgments, extents, executions, and of, from, and against all and singular estates, titles, troubles, charges, and incumbrances whatsoever

had, made, done, committed, occasioned, or suffered, or to be had, made, done, committed, occasioned or suffered by the said Sir Abel Ash, Sir David Ash his late brother, Sir David Ash and Dame Eliza Ash his late father and mother, and Sir David Ash his late grandfather, or any of them, their, or any of their heirs or assigns, or by any other person or persons lawfully claiming, or to claim from, by, or under, or in trust for them, or any of them, or from, by, or under their or any of their Act, means, assent, consent, or procurement : And moreover, that he the said Sir Abel Ash, and his heirs, and all other persons having or lawfully claiming, or which shall or may have, or lawfully claim any estate, right, title, trust, or interest of, into, or out of the said messuages, buildings, Plantation, lands, grounds, Negroes, slaves, utensils, hereditaments, and premises hereby mentioned or intended to be hereby granted and released, or any of them, or any part thereof, from, by, or under, or in trust for him, them, or any of them, or from, by, or under his said ancestors herein before named, or any of them, shall and will from time to time, and at all times hereafter, during the space of ten years next ensuing the date hereof, upon every reasonable request, and at the proper costs and charges in the law of the said Francis Ash, his heirs or assigns, make, do, acknowledge, levy, suffer, and execute, or cause or procure to be made, done, acknowledged, levied, suffered, and executed, all and every such further and other lawful and reasonable Acts, deeds, and things, devices, conveyances and assurances in the law whatsoever, for the further, better, more perfect, and absolute granting, conveying, and assuring of the said messuages, buildings, Plantation, Lands, grounds, Negroes, slaves, and utensils,

files, hereditaments, and premises hereby mentioned or intended to be hereby granted and released, with their appurtenances unto, and to the use of the said Francis Ash, Gilbert Gill, and Henry Hart, and to the heirs and assigns of the said Francis Ash in trust as aforesaid, as to the estate of the said Gilbert Gill and Henry Hart, be the same by fine, feoffment, common recovery, deed, inrolled or not inrolled, the inrollment of these presents, or otherwise, howsoever, as by the said Francis Ash, his heirs, or assigns, or his or their Counsel learned in the law, shall be reasonably advised or devised, and required, so as such further assurances contain in them no other or further warranty or covenants than against the person or persons, his or their heirs, who shall make or do the same, and so as the party or parties who shall be requested to make such further assurances be not compelled or compellable for making or doing thereof, to go or travel above five miles from his or their then respective dwellings or places of abode; and for the consideration aforesaid; the said Sir Abel Ash doth hereby for himself, his heirs, executors, and administrators, further covenant, promise, grant, and agree to and with the said Francis Ash, his executors, administrators, and assigns, that he the said Francis Ash, his executors, administrators, and assigns, shall and may immediately enter upon and have, receive, take, retain, and and convert to and for his and their own use and benefit, all the crop of sugars and all other the goods, chattels, and produce of or upon the said Plantation, lands, hereditaments, and premise hereby mentioned or intended to be her granted and released every or any part from and after the said feast of St. Michael Archangel last past, before the date he

the said Sir Abel Ash doth hereby accordingly grant, bargain, sell, assign, and set over the said crop of sugars, and all other the said goods, chattels, and produce of or upon the same Plantation, lands, hereditaments, and premises, every or any part thereof, and all the benefit and advantage thereof, unto the said Francis Ash, his executors, administrators, and assigns, to have, hold, receive, perceive, retain, take, and enjoy the said hereby assigned premises, and every part thereof, and all the benefit and advantage thereof unto him the said Francis Ash, his executors, administrators, and assigns, to and for his and their use and benefit, and as his and their own goods and chattels absolutely and for ever with warranty against all men. In witness, &c.

The Manner of executing DEEDS OF CONVEYANCE of a PLANTATION in Barbadoes, by a Person empowered by a Letter of Attorney; and the Letter of Attorney. The Deed is to conclude thus :

IN witness whereof to one part of these presents the said Abel Archer, by Barnard Bray of &c, in the Island of Barbadoes, Gent. his Attorney, hereunto lawfully authorised by a certain power of Attorney hereon indorsed, hath set his hand and seal, and to the other part of these presents, the said Caleb Coates hath set his hand and seal, the day and year above written.

To be indorsed thus :

The within written Deed was signed, sealed, and delivered by Barnard Bray, named in the Instrument or Power of Attorney written on this side of this skin of parchment, as the Attorney of the within named Abel Archer, for and in the name, and as the act and deed of the said Abel Archer, in the presence of us,

To

To be indorsed again thus:

Received before the day of the date of the within written Indenture, namely on the 20th day of May 1731, of and from the within Caleb Coates, by the hands of David Dent and Edmond Dent of London, merchants, the sum of 4200*l.* of lawful money of Great Britain, being the consideration money within mentioned to have been actually paid in hand to me. I say received.

Witness to the signing thereof
by Barnard Bray, of the parish of, &c. in Barbadoes, as the Attorney of the within named Abel Archer, for and in the name, and as the act of the said Abel Archer.

A Third INDORSEMENT thus, being the Power of Attorney.

KNOW all men by these presents, that I Abel Archer of the City of Bath, in the Kingdom of Great Britain, Esq; for divers good and valuable causes and considerations me hereunto moving, and more particularly for and in consideration of the sum of 4200*l.* of lawful money of Great Britain, to me in hand paid at or before the sealing and delivery of this present Instrument by Caleb Coates of the Island of Barbadoes, Planter (by the hands of David Dent and Edmond Dent of London, Merchants) and of the further sum of 7800*l.* of like lawful money, agreed and secured according to my good liking and approbation, to be paid unto me, my executors,
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ministrators or assigns, at several times hereafter, making together the sum of 12,000*l.* of lawful money of Great Britain, and being in full for the intire and absolute purchase of the fee-simple, inheritance, and full propriety of, all and singular the lands, plantations, sugar works, hereditament, slaves, stock, utensils, and other things in the within written writing mentioned or described, and thereby intended to be hereafter granted and conveyed, and to the end, intent and purpose, that the same premises may be legally, sufficiently and effectually granted, conveyed and assured unto and upon the said Caleb Coates, his heirs and assigns, for ever discharged of all estates tail and remainders whatsoever, have made, ordained, authorized, constituted and appointed, and by these presents do make, ordain, authorize, constitute and appoint Barnaby Bray, of, &c. Gent. and Fulk Flint, of, &c. Gent. jointly and each one of them separately my true and lawful Attornies and Attorney, irrevocable for me and in my name, and as my act and deed, forthwith and as soon as conveniently may be after this present Instrument shall arrive in the said Island of Barbadoes, to fill up, or cause to be filled up, the blanks at the top or beginning of the writing or deed within written, with the day of the month, and month whereon the same writing or deed shall be executed, pursuant to the further power hereafter in these presents given, or with any other proper date also to fill up, or cause to be filled up, the blanks at the bottom or end of the writing or deed within written, by and with the name, description and addition of such one of my said Attornies, as shall act by virtue of these presents, and of the power hereby given. And after those blanks shall
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be so filled up, then at the foot of the said Deed to subscribe the name Abel Archer, by virtue of these presents, and to seal and deliver the said writing or deed for me, in my name and as my act and deed, to the use of the said Caleb Coates, his heirs and assigns for ever, and that in the presence of any competent number of witnesses. And also for me to subscribe to the receipt written on this side of this skin of parchment, the name Abel Archer; and further, to appear for me within three months next after the date which shall be so filled up in the said within written deed or writing, and after the execution of the same writing, and to acknowledge such deed before the resident Governor of the said Island, or before some other of the chief Judges for the time being, of some one of the Courts of Justice within the said Island. And to do for me and in my name, and as my act and deed, but to the use of the said Caleb Coates, his heirs and assigns, all and every other act, matter and thing whatsoever, which shall be necessary, fitting, or expedient, to the full, legal, effectual and complete execution, acknowledgment and inrolment, or recording in due time of the deed or writing within written, or of any other deed or deeds of the like tenor or purport to the like uses, and of the same premises therein mentioned, although the same should be conveyed in other or different forms or terms; and although the premises in such other deed or deeds should be differently or otherwise described, the better to ascertain the same as fully, amply, and beneficially to all intents, constructions and purposes whatsoever, as I myself might or could do, if present, and did the same personally, so that there may be made a
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good and perfect title and conveyance unto the said Caleb Coates, his heirs and assigns for ever in fee-simple, of all and singular the premises in and by the within mentioned deed or writing meant or mentioned, or intended to be hereafter passed or granted away, hereby giving unto my said Attornies or Attorney my full and whole power and authority in the premises, and ratifying and confirming, and promising to hold for good, firm, valid and effectual, all that my said Attornies or Attorney shall lawfully do, or cause to be done in the premises by virtue of these presents. Provided always, That these presents, or the power hereby given, shall in no wise extend, or to be construed to extend, to repeal, revoke, determine or make void any former or other power or powers of attorney by me at any time heretofore given, or appointed to any other person or persons whatsoever, for any distinct or other purposes, but that such other power and powers of attorney shall still, notwithstanding these presents, and the power hereby given, remain, continue and be of the same authority, validity, force and effect, as if these presents had never been made or executed. Provided also, That these presents, or the power hereby given, shall in no wise extend, or be construed to extend, to appoint the said Barnaby Bray and Fulk Flint, every, either, or any of them, my Attornies or Attorney, to or for any other act, intent or purpose whatsoever, but solely and only for the making, executing, perfecting and completing unto the said Caleb Coates, his heirs and assigns, sufficient and proper deeds, writings and titles, whereby to pass, grant away and assure unto him, his heirs and assigns for ever, the free and clear fee-simple, inheritance and absolute propriety of and in all
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and singular the premises in the within written deed or writing described, mentioned, or expressed, and thereby meant and intended to be hereafter granted, bargained, sold, released, and confirmed. In witness, &c.*

Signed, sealed, and delivered
by the above-named G——
S——, in the presence of
us.

*A CONVEYANCE by Lease and Release of Lands
and Negroes in Antigua.*

LEASE for a YEAR.

THIS Indenture, made the 7th day of March, in the third year of the reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. and in the year of our Lord 1763, between the Honourable A—— L—— late of the island of Antigua, but now of Youngsbury, in the county of Hertford, in the kingdom of Great Britain, Esquire; and S—— his wife, of the one part, and W—— L—— late of the said Island of Antigua, but now of Gerard Street Soho, in the county of Middlesex, in the said kingdom of Great Britain, Esquire, of the other part, witnesseth, That for and in consideration of the sum of five shillings, a piece of lawful money of Great Britain, to the said A—— L——, and S—— his wife, in hand, well and truly paid by the said W—— L——, at and before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged). They, the said A—— L—— and S—— his wife, have,

* See the second Volume of Hoffman's Cons from 768 to 773.

each of them hath granted, bargained, and sold, and by these presents do, and each of them doth grant, bargain, and sell, unto the said W—— L——, ALL THAT PLANTATION, or parcel of land, of him the said A—— L——, situate, lying, and being in the parish of St. Mary, and division of Bermudian Valley, in the said Island of Antigua, containing, by estimation, four hundred and fifty acres of land, be the same more or less butted and bounded to the north with the estates, late of J—— F—— deceased, and F—— F—— east, with Dark Valley, now in the possession of J—— W——, and J—— F—— south, with the estate of E—— J—— deceased, and lands of W—— B——, and with part of the lands of A—— P—— and West, with part of the estate of J—— F——, the Pond; and part with the lands of A—— P——, or however otherwise the same is butted or bounded, lying or being; and also the dwelling-house and out-houses thereto belonging; and the windmill, boiling-house, curing-house, still-house, and all other buildings whatsoever, erected upon the said Plantation: and also, all sugar coppers, stills, still-heads, worms, worm tubs, carts, carriages, and all other plantation utensils of what nature or kind soever to the same plantation belonging, or in anywise appertaining: And also, all that other plantation, or parcel of land, of him the said A—— L——, called S—— V——, and G—— situate in the same division and parish, containing, by estimation, thirty-five acres, or thereabouts, be the same more or less butted and bounded to the west by the sea, to the east with land of A—— P——, to the north with the Pond, and to the south with other lands of the said A—— L——, at the pitch of Crab-hill; or
however

however otherwise the same is butted, bounded, lying, or being: And also, all that other Plantation, or parcel of land, of him the said A—— L——, called C—— V——, and C——, situate in the division of Old Road, and Parish of St. Mary, in the said island, containing, by estimation, one hundred and ten acres of land, or thereabouts; be the same more or less butted and bounded to the west with the sea; to the east partly with lands of J—— D——, and partly with lands of W—— B——; to the south with lands of the said J—— D——, and to the north with the lands of T—— U——, lands of P—— D——, and other lands of the said A—— L——, or however otherwise the same is butted or bounded, lying or being: And also, all those the Negroe slaves following (that is to say), Peter, Dickey, French, Pero (with seventy-nine others named in the deed), being men; Sidney, Trese, Quasheba, Cecil (with eighty-four others named in the deed) being women; Isaac, Valentine, Quashey, Frederick (with twenty-one others named in the deed), being boys; and Sam Picart a Mustee boy; Nanny, Hannah, Little Betty, Violet (with thirty-nine others named in the deed), being girls; and Bonnée a Mustee girl; or such of the said Negro slaves as are now living, together with all the issues, and increase of all and every the said female Negroe slaves, now born, or hereafter to be born; and also two bulls named Creole and March; and also all those the following oxen (that is to say), Tom, Butcher, Spaniard, Aberdeen (with thirty-three others named in the deed); and also all those the following cows (that is to say), Bess, Torey, Sabel Mirah (with twenty-nine others named in the deed); and also, all those the following

(that is to say), Duke, Man of War, Swagger (with ten others mentioned in the deed); and also, all those the following bull calves (that is to say), Sunday; Monday, Harry; Bright, and Dramer; and also, all those the following cow calves (that is to say), Peggy, Maltain, Sukey, Handsome, and Hannah; and also, all those the following horses (that is to say), Gunthorpe, Brown, Gatley, Squirrel, and Button; and also, all those the following mares (that is to say), Jenny, Muggy, Phillis, Florenda, Europa, and her colt, and Guadaloupe; and also a colt, named Sarah, or such of the said cattle, horses, and mares, as are now living; together also, with all horses, cattle, mules, and stock, on the said Sugar-work, Plantation; and also, all the coppers, stills, coolers, cisterns, worms, worm-tubs, pots, drips, skimmers, ladles, waggons, carts, and other utensils, and appurtenances to the said Sugar-work Plantation belonging, or in anywise appertaining; and all other the lands, tenements, or estate whatsoever, of him the said A—— L——, party hereto, and S—— his wife, or either of them, in the said Island of Antigua, and all ways, waters, water-courses, woods, trees, pastures, feedings, ground, soil, profits, perquisites, royalties, freedoms, franchises, privileges, hereditaments, and appurtenances, to the said premises, or any of them, in any way belonging, or appertaining, or therewith now, or heretofore used, occupied, or enjoyed, or accepted, reputed, taken, or known to be part, parcel, or member thereof, or of any part of the same, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. TO HAVE AND TO HOLD the said Plantations, or Sugar-works, houses, buildings, lands,

lands, Negroes, slaves, cattle, horses, mules, and plantation-utensils, and other the hereditaments and premisses whatsoever herein-before mentioned; with their and every of their appurtenances unto the said W—— L——, his executors, administrators, and assigns, from the day next before the day of the date of these presents, for and during; and unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended; YIELDING and PAYING therefore at the end and expiration of the said term; unto the said A—— L——, and S—— his wife, their executors, administrators, and assigns, the rent of one pepper-corn, if the same shall be lawfully demanded, to the intent that, by virtue of these presents, and by force of the statute for transferring uses into possession, he, the said W—— L——, may be in the actual possession of all and singular the premises aforesaid, with their appurtenances; and may thereby be enabled to take and accept of a grant and release of the reversion and inheritance thereof, to him and his heirs, to the only proper use and behoof of him the said W—— L——, his heirs and assigns for ever, as in and by a certain indenture; intended to bear date the day next after the day of the date of these presents, and to be made between the same parties; the same shall be granted and released. And to the intent these presents may be duly recorded, acknowledged, and registered, and take effect according to the laws of the said Island of Antigua; they, the said A—— L—— and S—— his wife, have made, ordained, constituted, and appointed, that these presents do, and each of them ordain, constitute, and appoint, T—— J—— Esquire, S—— and T—— W—— Esqui

the said Island of Antigua, jointly and severally, to be their true and lawful attorney and attornies, for them, and in either of their name or names, to appear before the Secretary or Register of the said Island of Antigua, or his lawful deputy, or any other proper officer of the said Island, to acknowledge these presents to be the acts and deeds of them the said A—— L——— and S—— his wife, and the names and seals thereto subscribed and affixed to be the hands and seals of them the said A—— L——— and S—— his wife; and further, to do and perform every or any other act, matter, or thing in the like cases accustomed, or which shall be necessary for the making these presents valid and effectual in the law, according to the true intent and meaning hereof. In witness whereof, the said A—— L——— and S—— his wife, have hereunto, and to one other part hereof, of the same tenor and date, set their hands and seals the day and year first above written.

A—— L———. (L. S.)

S—— L———. (L. S.)

Sealed and delivered (being first duly stamped)
in the presence of us,

J—— P——.

G—— H——.

In CHANCERY,

J—— P——, of the parish of St. Giles in the Fields, in the county of Middlesex, Gentleman, maketh oath and saith, That he, this deponent, is one of the subscribing witnesses to a certain deed or writing hereunto annexed, bearing date the 7th day of March, in the year of our Lord 1763, and made between the Hon. A— L—

late

late of the Island of Antigua, but now of Youngsbury in the County of Hertford, in the kingdom of Great Britain, and S——, his wife, of the one part, and W—— L——, late of the said Island of Antigua, but now of Gerard-street, Soho, in the county of Middlesex, in the said kingdom of Great Britain, Esquire, of the other part, purporting to be a Lease for a year of certain lands and premises in the parish of St. Mary, and division of Bermudian Valley, in the said Island of Antigua: and this Deponent further saith, That the said A—— L—— and S—— L——, did sign, seal, and deliver the said deed or writing as their act and deed, in the presence of this Deponent, and of G—— H——, the other subscribing witness to the said deed or writing; and that the names A—— L—— and S—— L——, thereunto set and subscribed, are of the respective proper hands-writing of them the said A—— L—— and S—— L——: and this Deponent further saith, That the name J—— P—— appearing to be set and subscribed as one of the witnesses to the said deed or writing, is the proper hand-writing of this Deponent; and that the name G—— H—— also appearing to be set and subscribed as the other witness to the said writing, is of the proper hand-writing of the said G—— H——.

J—— P——.

Sworn at the public office,
the 16th of August 1763,
before me,

SAMUEL PECELL.

16th August 1763. This deed or parchment writing was produced, and shewn to J—— P—— and is the same mentioned and referred to in Affidavit this day sworn to by him, before

SAMUEL J

INROLLED in his Majesty's High Court of Chancery, the 16th day of August, in the year of our Lord 1763 (being first duly stamped), according to the tenor of the statute, made in the 6th year of the reign of their late Majesties King William and Queen Mary, by

HUMPH. HACKSHAW.

MEMORANDUM, The within Indenture was acknowledged by T—— W——, Esq; as the respective acts and deeds of A—— L——, Esq; and S—— his wife, by virtue of a Power of Attorney, the 9th day of February 1764, before me,
EDWARD GAMBLE, Reg,

R E L E A S E,

THIS Indenture, made the 8th day of March, in the 3d year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, &c. and in the year of our Lord 1763, between the Honourable A—— L—— late of the Island of Antigua, but now of Youngsbury, in the County of Hertford, in the Kingdom of Great Britain, Esq; and S—— his wife, of the one part, and W—— L——, late of the said Island of Antigua, but now of Gerrard Street, Soho, in the County of Middlesex, in the said Kingdom of Great Britain, Esq; of the other part: WHEREAS the said A—— L—— being justly indebted to J—— B ——, late of the Island of Antigua, but now of Grosvenor Street, in the said County of Middlesex, Esq; in the sum of 360*l.* lawful money of Great Britain, heretofore secured upon the Plantations or sugar-works, lands, and hereditaments herein after mentioned, to be hereby released, or some part thereof, by
the

the said A— L— to F— D— and P— C—, by way of mortgage for a term of 500 years, by Indenture bearing date the 19th day of September 1753, which said mortgage was afterwards, on the 19th day of September 1756, assigned to the said J— B—, the said W— L— hath, at the request, and by and with the consent and direction of the said A— L—, paid to the said J— B— the said sum of 3604*l.* and all interest due thereon; in consideration whereof, the said J— B— hath agreed to assign his interest in the said mortgaged premises to the said W— L—, or to such person as he shall direct: AND WHEREAS, on the 10th of September 1754, the said A— L— confessed adjudgment in the Court of Common Pleas in the said Island of Antigua, to D— O— the elder, and W— O—, in an action of debt upon bond, of the penalty of 8072*l.* of lawful money of Great Britain, and there remaining due from the said A— L—, on the said judgment, the sum of 3341*l.* 5*s.* 1*d.* of like lawful money, the said W— L— hath, at the request, and by and with the consent and direction of the said A— L—, paid the sum of 3341*l.* 5*s.* 1*d.* and hath taken an assignment thereof to himself, or some person in trust for him: AND WHEREAS the said A— L— is also justly indebted to the said W— L— in the sum of 6000*l.* of like lawful money of Great Britain, together with an arrear of interest, in respect thereof secured to the said W— L—, upon the said Plantations or sugar-works, lands, and hereditaments by way of mortgage thereof in fee, by certain Indentures of Lease and Release date respectively the 17th and 18th of the month of January in the year of our Lord 1759, and in

tioned to be made, between the said A— L— of the one part, and the said W— L— of the other part: AND WHEREAS the said W— L— hath advanced and lent to the said A— L—, the sum of 60*l.* 10*s.* over and besides the three several sums before mentioned: AND WHEREAS there now remains due to the said W— L— from the said A— L—, for principal and interest to the day of the date hereof, on the three several securities herein before mentioned, together with the said sum of 60*l.* 10*s.* the sum of 12,380*l.* of like lawful money of Great Britain: AND WHEREAS the said A— L— is likewise justly indebted to the several persons herein after named, in the several sums of money upon the several securities herein after mentioned or expressed (that is to say) to R— G— of London, merchant, in the sum of 2663*l.* of like lawful money of Great Britain, for securing the payment whereof, with interest, the said A— L— hath executed a Warrant of Attorney, to confess judgment to the said R— G— in the said Court of Common Pleas in the said Island of Antigua, bearing date the 5th day of November, in the year of our Lord 1762, which said Warrant of Attorney hath been transmitted by the said R— G— to the said Island of Antigua, in order to enter up judgment thereon: To J— B— of the parish of Stepney, in the sum of 992*l.* of like lawful money, for part of which said sum of 992*l.* being the sum of 775*l.* 13*s.* 4*d.* the said J— B— hath recovered a judgment against the said A— L—, and for the remainder thereof, being the sum of 216*l.* 6*s.* 8*d.* the said A— L— hath given his note of hand to the said J— B—: To R— K— of the said Island of Antigua,
Gentleman,

Gentleman, in the sum of 690*l.* of like lawful money of Great Britain, for securing the payment whereof, the said A— L— hath entered into a bond or obligation to the said R— K—, bearing date the 28th day of April, in the year of our Lord 1760, in the penalty of 1262*l.* 2*s.* To J— D— in the sum of 485*l.* of like lawful money, for securing the payment whereof, the said A— L— hath entered into a bond or obligation, bearing date the 3d day of June, in the year of our Lord 1760: To R— M— of London, merchant, in the sum of 325*l.* of like lawful money, for securing the payment whereof, the said A— L— hath given his note of hand to the said R— M—, which said several debts, so due from the said A— L— to R— G—, J— B—, R— K—, J— D—, and R— M—, amount in the whole, with interest computed thereon as aforesaid, to the day of the date of these presents, to the sum of 5155*l.* AND WHEREAS there are several rents charge, or yearly sums issuing and payable out of the said Plantations and hereditaments herein after mentioned, to the several persons herein after named (that is to say) To C— J— and A— J— his wife, during their joint lives, and the lives of the survivor, the yearly sum of 100*l.* of lawful money of Great Britain: To C— B— for her life, the yearly sum of 22*l.* of like lawful money: To A— L— for her life, the yearly sum of 75*l.* of like lawful money: To the said A— L—, she having survived her husband T— L—, a full annuity of 80*l.* *per annum*, of like lawful money of Great Britain, and to J— L— survives her husband A— L— the yearly sum of 200*l.* of like l

Great Britain; and C—— B—— is entitled to a gross sum of 800*l.* Antigua currency, if she shall survive her husband J—— B——, and to the interest thereof after the rate of 6*l. per cent. per annum*, Antigua currency, in the mean time respectively charged on the same Plantation and hereditaments: AND WHEREAS the said several rents, charge, or yearly sums, together with the said gross sum of 800*l.* payable upon the contingency aforesaid, with such interest for the same in the mean time, as herein before is mentioned, have been estimated and valued by the said A—— L——, party hereto, and W—— L——, at the sum of 3439*l.* of lawful money of Great Britain: AND WHEREAS there is now due to the said C—— J——, for his said annuity, from the said A—— L——, the sum of 100*l.* of like lawful money of Great Britain, and to the said C—— B——, the sum of 50*l.* of like lawful money, which the said W—— L—— hath, at the request of the said A—— L——, agreed to pay for him: AND WHEREAS the said W—— L—— hath contracted with the said A—— L——, party hereto, for the absolute purchase of the inheritance in fee simple, and equity of redemption of the said Plantation or sugar-work, lands, and hereditaments herein after mentioned, to be hereby released, subject to, and charged and chargeable with the payment of the said several debts herein before mentioned to amount to the sum of 18,535*l.* and of the said several rents, charge, and gross sum of 800*l.* payable upon the contingency aforesaid, and with such interest in the mean time, as herein before is mentioned, and of the said two sums of 100*l.* due to the said C—— J——, and 50*l.* due to the said C—— B——, at or for the price or sum of 24,000*l.* of
lawful

lawful money of Great Britain; and it hath been agreed between them, that the said W— L— shall retain to his own use, out of the said purchase-money, the said sum of 13,380*l.* in satisfaction and discharge of the several debts herein before mentioned, to be due and owing to him as aforesaid. AND ALSO the said several sums of 5155*l.* and 3439*l.*, as a compensation, for and towards satisfaction and discharge of the several other debts herein before mentioned, and of the said several rents charge, or yearly sums, and other money, and also the said two sums of 100*l.* and 50*l.* herein before mentioned, which the said W— L— hath undertaken to pay, And the said Plantations or sugar-work, and hereditaments, are intended to remain subject to, and charged and chargeable therewith; and that the sum of 1876*l.*, residue of the said sum of 24,000*l.*, shall be secured to be paid to the said A— L—, party hereto, by the said W— L—, by his bond or obligation, bearing even date herewith. NOW THIS INDENTURE WITNESSETH, that for and in satisfaction and discharge of the said several sums of money, and interest herein before mentioned, to be due and owing to the said W— L—, amounting, in the whole, to the sum of 13,380*l.* of lawful money of Great Britain, and agreed to be retained by him out of the said 24,000*l.*; and for and in consideration as well of the said several further sums of 5155*l.* and 3439*l.*, other part of the said purchase money, retained by the said W— L—, in compensation for, and towards satisfaction of, the said several other debts, rents-charges, and other money, as also the said two sums of 100*l.* and 50*l.* herein before mentioned, to be due to C— B—, which the said

taken to pay and discharge: **AND ALSO** the further sum of 1876*l.* of like lawful money of Great Britain, being the remainder of the said sum of 24,000*l.*, secured to be paid by the said W— L— to the said A— L—, party hereto, in the manner herein before mentioned, with which said security the said A— L— doth hereby acknowledge himself to be satisfied and content, and doth declare the said six several sums of 13,380*l.*, 5155*l.*, 3439*l.*, 100*l.*, 50*l.*, and 1876*l.*—amounting together to the said sum of 24,000*l.*—of lawful money of Great Britain, to be the full consideration for such purchase as aforesaid, and thereof, and of and from every part thereof doth acquit, release, and discharge the said W— L—, his heirs, executors, and administrators; and also for and in consideration of the sum of 10*s.* of like lawful money by the said W— L—, to the said A— L—, party hereto, and S— his wife, in hand, at or before the sealing and delivering of these presents, well and truly paid, the receipt whereof is hereby acknowledged. **THEY** the said A— L—, party hereto, and S— his wife, **HAVE**, and each of them **HATH** granted, bargained, sold, aliened, released, and confirmed, and by these presents **DO**, and each of them **DOTH** grant, bargain, sell, alien, release, and confirm unto the said W— L— (in his actual possession now being, by virtue of a bargain and sale to him thereof made, by the said A— L— and S— his wife, for five shillings apiece consideration, by indenture bearing date the day next before the day of the date of these presents, for one whole year, commencing from the day next before the day of the date of the same indenture of bargain and sale, and by force of the statute for transferring
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uses into possession) and to his heirs and assigns, ALL THAT PLANTATION, or parcel of land, of him the said A— L—, situate, lying, and being in the parish of St. Mary, and division of Bermudian Valley, in the said Island of Antigua, containing, by estimation, 450 acres of land, be the same more or less, butted and bounded to the north with the estate late of J— F— deceased, and F— F—; east, with Dark Valley, now in possession of J— W— and J— F—; south, with the estate of C— J— deceased, and lands of W— B—, and with part of the lands of A— P—; and west, with part of the estate of J— F—, the pond, and part with lands of A— P—; or however otherwise the same is butted and bounded, lying or being: And also the dwelling-house and outhouses thereto belonging, and the windmill, boiling-house, curing-house, still-house, and all other buildings whatsoever, erected upon the said Plantation: AND also all sugar-coppers, stills, still-heads, worms, worm-tubs, carts, carriages, and all other plantation utensils, of what nature or kind soever, to the same plantation belonging, or in any wise appertaining: AND ALSO all that other Plantation, or parcel of land, of him the said A— L—, called S— V—, and G—, situate in the same division and parish, containing, by estimation, thirty-five acres or thereabouts, be the same more or less, butted and bounded to the west by the sea; to the east, with lands of A— P—; to the north, with the pond; and, to the south, with other lands of the said A— L—, at the pitch of Crab Hill, or however otherwise the same is butted and bounded, lying or being: AND ALSO all that other Plantation, or parcel of land, of him the said A— L—, called C—
V—,

V—, and C—, situate in the division of Old Road, and parish of St. Mary, in the said island, containing, by estimation, 110 acres of land, or thereabouts, be the same more or less, butted and bounded to the west with the sea; to the east, partly with lands of J— D—, and partly with lands of W— B—; to the south, with lands of the said J— D—; and, to the north, with lands of T— U—, lands of P— D—, and other lands of the said A— L—; or however otherwise the same is butted or bounded, lying or being: And also all those the Negroe slaves following (that is to say), Peter, Dickey, French, Pero (with seventy-nine others named in the deed), being men; Moll, Sidney, Trefe, Quasheba (with eighty-four others named in the deed), being women; Isaac, Valentine, Quashey, Frederick (with twenty-one others named in the deed), being boys; and Sam, Picart, a Mustee boy; Nanny, Hannah, Little Betty, (with forty others named in the deed) being girls; and Bonney, a Mustee girl; or such of the said Negroe slaves as are now living, together with all the issues and increase of all and every the said female Negroe slaves now born, or hereafter to be born; and also two bulls, named Creole, and March; and also all those the following oxen, that is to say, Tom, Butcher, Spaniard, Aberdeen, (with thirty-three others named in the deed); and also all those the following cows (that is to say) Bess, Torey, Isabella, Mirah, (with twenty-nine others named in the deed); and also all those the following steers (that is to say) Duke, Man of War, Swagger, with ten others named in the deed); and also all those the following bull calves (that is to say), Sunday, Monday, Harry, Bright, and Drainer;

Drainer; and also all those the following cow calves (that is to say), Peggy, Mattain, Sukey, Handsome, and Hannah; and also all those the following horses (that is to say) Gunthorpe, Brown, Gantley, Squirrel, and Button; and also all those the following mares (that is to say) Jenny, Muggy, Phillis, Florenda, Europa and her colt, and Guadaloupe; and also a colt named Sarah, or such of the said cattle, and horses, and mares as are now living; together also with all other horses, cattle, mules, and stock on the said Sugar-work Plantation; and also all the coppers, stills, coolers, cisterns, worms, worm-tubs, pots, drips, skimmers, ladles, waggons, carts, and other utensils and appurtenances to the said Sugar-work Plantation belonging, or in any wise appertaining; and all other the lands, tenements, or estate whatsoever of him the said A—— L——, party hereto, and S—— his wife, or either of them, in the said Island of Antigua; and all ways, waters, water-courses, woods, trees, pastures, feedings, ground, soil, profits, perquisites, royalties, freedoms, franchises, privileges, hereditaments, and appurtenances to the premises, or any of them, in any way belonging or appertaining, or therewith now or heretofore used, occupied, or enjoyed, or accepted, reputed, taken, or known to be part, parcel, or member thereof, or of any part of the same; and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also, all the estate, right, title, inheritance, equity of redemption, use, trust, interest, claim, or demand whatsoever, either at law or in equity, of them the said A—— L——, party hereto, and S—— his wife, or either of them, of, in, to, or out of the said Plantations, sugar-works, messuages, lands.

ments, Negroes, slaves, and premises, with their and every of their appurtenances, or any of them, or any part of the same, and all deeds, evidences, and writings whatsoever relating to the same several premises, in their or either of their custody or power, to come by without suit at law or in equity; **TO HAVE AND TO HOLD** the said Plantations, 'or sugar-works, houses, buildings, lands, Negroes, slaves, cattle, horses, mules, and plantation utensils, and other the hereditaments and premises whatsoever mentioned to be hereby granted and released, with their and every of their appurtenances, unto the said W—— L——, and his heirs and assigns, to the only proper use and behoof of the said W—— L——, his heirs, and assignees for ever; and to and for no other use, intent, or purpose whatsoever; and the said A—— L——, party hereto for himself, his heirs, executors, and administrators, **DOTH** covenant, promise and grant to and with the said W—— L——, his heirs and assigns, by these presents, in the manner following (that is to say) that for and notwithstanding any act, matter, or thing whatsoever by them the said A—— L——, party hereto, and S——, his wife, or either of them, heretofore done, or wittingly suffered to the contrary, **THEY** the said A—— L——, party hereto, and S—— his wife, or one of them now at the time of the sealing and delivery of these presents, are and stand, or is and standeth lawfully and rightfully seized of and in the said Plantations, sugar-works, messuages, lands, Negroes, Mulatto slaves, hereditaments, and premises, with their and every of their appurtenances, of a good, sure, perfect, and absolute estate of inheritance, without any manner of

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condition contingent, proviso, power of limitation, of new, or other use, or uses; or other restraint, matter, or thing, to alter, change, charge, or defeat the same; and also, that for and notwithstanding any such act, matter, or thing as aforesaid, they the said A— L—, party hereto, and S— his wife, have in themselves good right, full power, and lawful and absolute authority by these presents, and the acknowledgment of them the said A— L— and S— his wife, intended to be taken in such manner as the same is intended to be indorsed on these presents, to release and assure unto and to the use of the said W— L—, his heirs and assigns, the same Plantations and premises according to the purport, true intent, and meaning of these presents. AND FURTHER, That he the said W— L—, his heirs and assigns shall, and lawfully may, from time to time, and at all times hereafter, peaceably and quietly have, hold, use, occupy, possess, and enjoy all the said Plantations, sugar-works, houses, buildings, lands, Negro and Mulatto slaves, hereditaments, and other the premises whatsoever, with their and every of their appurtenances, without the let, suit, hindrance, interruption, or denial of them the said A— L—, party hereto, and S— his wife, or either of them, their or either of their heirs or assigns, or of any other person or persons whomsoever, lawfully claiming, or who shall or may claim by, from, or under him, her, them, or any, or either of them, or any of their ancestors, and that free and clear, and freely and clearly acquitted, exonerated and discharged, or otherwise well and sufficiently saved and kept harmless, and indemnified by the said A— L—, and S— his

wife, their heirs, executors, and administrators, of and from all former and other gifts, grants, bargains, sales, mortgages, jointures, dowers, uses, intails, rents, arrears of rent, statutes merchant, and of the staple, judgments, recognizances, titles, charges, and incumbrances whatsoever, had, made, done, committed, or suffered by the said A—— L——, and S—— his wife, or either of them, or by, through, or with their or either of their act or acts, means, consent, privity, or procurement, save and except the several charges and incumbrances herein before mentioned. **AND MOREOVER,** That the said A—— L——, party hereto, and S—— his wife, their heirs and assigns, and all other person and persons whatsoever, now having or claiming, or which at any time hereafter shall or may have or claim any estate, right, title, trust, or interest of, in, to, or out of the said lands, plantations, sugar-works, houses, buildings, hereditaments, and other the premises, with the appurtenances, or of, in, to, or out of any part, or parcel thereof (other than and except the several persons claiming the said several debts, rents, charge, and other money, which the same several premises are intended to remain charged and chargeable with in respect thereof only), shall and will, from time to time, and at all times hereafter, at the request, and at the costs and charges in the law of the said W—— L——, his heirs or assigns, make, do, acknowledge, suffer, and execute, or cause or procure to be made, done, acknowledged, executed, and suffered, all and every such further and other reasonable act and acts, thing and things, device and devices, assurance and assurances in the law whatsoever, for the further, better, and more perfect and absolute assuring,

furing, fure-making, conveying, and confirming
 of all the faid plantations, lands, hereditaments,
 and premifes, with their and every of their ap-
 purtenances unto and to the ufe of the faid
 W—— L——, his heirs and affigns for ever, as
 by the faid W—— L——, his heirs or affigns,
 or by his or their Counsel learned in the law fhall
 be reasonably devifed, advifed or required, fo as
 fuch further affurances contain in them no fur-
 ther or other covenants or warranty, than againft
 the perfon or perfons who fhall be required to
 make and execute the fame as his, her and their acts
 and deeds, and fo as no perfon be compelled or
 compellable to travel, or go from the ufual place
 of his, her, or their habitation or abode for the
 doing thereof. And the faid A—— L——, par-
 ty hereto, doth hereby for himfelf, his heirs, exe-
 cutors and adminiftrators; further covenant, pro-
 mife, and agree to and with the faid W——
 L——, his executors, adminiftrators and affigns,
 that the faid fum of 1876 l. fecured to be paid
 by the faid W—— L—— to the fame A——
 L——, as herein before mentioned, as and for
 the remainder of the purchase-money for the pre-
 mifes, fhall remain and continue in the hands of
 the faid W—— L—— until fuch time as the
 faid W—— L——, his heirs or affigns, or fome
 perfon or perfons duly authorized and impowered
 by and under him or them, fhall have fearch-
 ed the Register's or Secretary's Office of the faid
 Island of Antigua, in order to be fatisfied what
 charges or incumbrances now affect the faid
 feveral premifes mentioned, to be hereby re-
 leased, or any of them; and in cafe upon fuch
 fearch any fuch incumbrance or charge fhall be
 found, the payment whereof is not hereby provided
 for, that then, and

L—— shall and may be at liberty, and is hereby empowered to pay and apply so much of the said sum of 18761. in payment and satisfaction of such charge and incumbrance as aforesaid, PROVIDED the same money will extend to pay the same; but in case such charge and incumbrance shall exceed the said sum of 18761. now remaining in the hands of the said W—— L——, THEN, and in such case, the security so given by him for the payment of the said sum of 18761. shall cease, determine, and be void to all intents and purposes as if the same had not been made; and these presents, and the grant and release hereby made, shall from thenceforth be and enure, and the said W—— L——, his heirs and assigns, shall stand and be seized of the said several plantations, sugar-works, messuages, lands, hereditaments, and premises, subject to redemption by the said A—— L——, party hereto, his heirs, executors, or administrators, on his or their paying to the said W—— L——, his executors, administrators, or assigns, the said several debts amounting to the sum of 13,3801. herein before mentioned to be due and owing to him, with the interest thereof, within three calendar months then next ensuing; and the said W—— L—— doth hereby for himself, his heirs, executors, and administrators, covenant, promise and agree to and with the said A—— L——, party hereto, his heirs, executors, and administrators, that in case upon such search as aforesaid, no charge or incumbrance (other than such as are hereby provided for the payment of) exceeding the residue of the said purchase-money agreed to remain in the hands of the said W—— L—— shall appear to affect the said several premises, or or any part thereof, THEN, and in such case,
 he

he the said W—— L——, his heirs, executors, administrators, and assigns, shall and will, from time to time, and at all times hereafter, bear, pay, and discharge all and singular the said sums of money, rents, charge or yearly sums, and other charges herein before mentioned and recited to be due from, and payable by the said A—— L——, party hereto, together with all interest that may hereafter become due thereon; and also shall and will, from time to time, and at all times hereafter, well and sufficiently save harmless, and keep indemnified the said A—— L——, his heirs, executors, and administrators, and his and their goods and chattels, lands and tenements, of, from, and against all such costs, charges, damages and expences as shall or may at any time hereafter be recovered against, or be sustained, expended or become payable by him or them, for or by reason or means of the non-payment of the said several sums of money, rents charge or yearly sums, and other charges and incumbrances herein before recited, or any part thereof. AND to the INTENT that these presents may be duly recorded, acknowledged and registered, and take effect according to the laws of the said Island of Antigua, they the said A—— L——, and S—— his wife, HAVE made, ordained, constituted and appointed, and by these presents DO, and each of them DOTH make, ordain, stitute and appoint the Honourable T—— I——, Esq. S—— B——, Esq. and T—— W——, Esq. now resident in the said Island of Antigua, jointly and severally to be their true and lawful Attorney and Attorneys for them, and in any of their name or names to appear before the Secretary or Register of the said Island of Antigua, or his lawful Deputy, or any other proper Officer o

the said Island, to acknowledge these presents to be the acts and deeds of them the said A—— L——, party hereto, and S—— his wife, and the names and seals thereto subscribed and affixed to be the hands and seals of them the said A—— L——, party hereto, and S—— his wife. AND FURTHER, to do and perform every or any other act, matter, or thing in the like cases accustomed, or which shall be necessary for the making these presents valid and effectual in the law, according to the true intent and meaning thereof. IN WITNESS whereof, the said parties have hereunto, and to one other part thereof, of the same tenor and date, set their hands and seals the day and year first above written.

A—— L——. (L. S.)
S—— L——. (L. S.)

SEALED and delivered (being first duly stamped) in the presence of us,

J—— P——.
G—— H——.

BE IT REMEMBERED, That on the 8th day of March 1763, before me Sir Charles Pratt, Knt. Chief Justice of his Majesty's Court of Common Pleas, personally appeared A—— L—— and S—— his wife, parties to the within written Indenture, being the grantors therein named, and did then severally acknowledge before me, that the within written Indenture was their respective act and deed, and was by them respectively duly executed, in order and to the intent that the same Indenture, together with this present acknowledgment thereon had, may be effectual to bar all inrails, and pass all estate,

estate, right, title and interest of them the said A—— L—— and S—— his wife respectively, of and in the Plantations or Sugar Works, Messuages, Lands, Hereditaments, Slaves, Cattle and other things comprized in the within written Indenture, and therein mentioned to be thereby granted and released (the said S—— being solely examined by me, and consenting thereunto) which I attest under my hand the day and year above written, in my aforesaid capacity.

C. PRATT.

IN CHANCERY.

J—— P——, of the Parish of St. Giles in the Fields, in the County of Middlesex, Gent. maketh oath and saith, That he this deponent is one of the subscribing witnesses to a certain deed or writing hereunto annexed, bearing date the 8th day of March, in the year of our Lord 1763, and made between the Honourable A—— L——, late of the Island of Antigua, but now of Youngsbury in the County of Hertford, in the Kingdom of Great Britain, and S—— his Wife, of the one part, and W—— L——, late of the said Island of Antigua, but now of Gerard-street, Soho, in the County of Middlesex, in the said Kingdom of Great Britain, Esq; of the other part, purporting to be a release of certain lands and premises in the parish of St. Mary and division of Bermudian Valley in the said Island of Antigua: And this deponent saith, That the said A—— L—— and S—— L—— did sign, seal and deliver the said deed or writing, as their act and deed, in the presence of this deponent, and of G—— H——, the other subscribing witness to the said deed or writing; and that the names A—— L——, S—— L—— thereunto set and subscribed

of the respective proper hands-writing of them the said A—— L—— and S—— L——. And this deponent further saith, That the name J—— P——, appearing to be set and subscribed as one of the witnesses to the said Deed or writing, is of the proper hand-writing of this deponent. And that the name G—— H—— also appearing to be set and subscribed as the other witness to the said deed or writing, is of the proper hand-writing of the said G—— H——.

J—— P——,

Sworn at the Public Office
the 16th of August 1763,
before

SAM. PECHELL,

16th of August 1763. This Deed or parchment-writing was produced and shewn to J—— P——, and is the same mentioned and referred to in his affidavit this day sworn to by him before me,

SAM. PECHELL.

INROLLED in his Majesty's High Court of Chancery the 16th day of August, in the year of our Lord 1763, being first duly stampd, according to the tenor of the statute made in the sixth year of the reign of their late Majesties King William and Queen Mary, by

HUMPH. HACKSHAW.

TO all to whom these presents shall come, I William Beckford, Esq; Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the fifth year of the reign of his late Majesty King George the Second, intituled, An Act for the more easy Recovery of

Debts in his Majesty's Plantations and Colonies in America, do hereby certify, That on the day of of the date hereof, personally came and appeared before me G—— H——, the Deponent named in the affidavit hereunto annexed, being a person well known and worthy of good credit; and by solemn oath which the said deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed affidavit.



In faith and testimony whereof, I the said Lord Mayor have caused the Seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, and the lease and release mentioned and referred to in and by the said affidavit, to be hereunto also annexed. Dated in London, the 3d day of September, in the year of our Lord 1763.

HODGES.

LONDON.

G—— H——, of Great Queen-street, Lincoln's Inn Fields, Gent. maketh oath and faith, That he was present and did see the Honourable A—— L——, Esq; and S—— his wife, parties to the two parchment writings or deeds hereunto annexed (purporting to be a lease and release from the said A—— L—— and S—— his wife
to

to W—— L——, late of the island of Antigua, but now of Gerard-street, Soho, in the County of Middlesex, in the Kingdom of Great Britain, Esq;) severally and respectively sign and seal, and as their several and respective acts and deeds, deliver the said two parchment-writings or deeds. And this deponent saith, That the names A—— L—— and S—— L—— appearing to be set or subscribed to each of the said parchment-writings or deeds, are of the respective proper hands-writing of the said A—— L—— and S—— his wife. And this deponent did, together with J—— P——, indorse his name as a witness to the due execution of the said parchment-writings or deeds. And further saith, That the names J—— P—— and G—— H—— appearing to be indorsed as witnesses to the due execution of the said parchment-writings or deeds, are of the respective proper hands-writing of the said J—— P—— and him this deponent.

G—— H——,

Sworn the 3d day of Sept.

1763, before me,

WILLIAM BECKFORD, Mayor.

MEMORANDUM, the within Indenture was acknowledged by T—— W——, Esq; as the respective acts and deeds of A—— L——, Esq; and S—— his wife, by virtue of the within power of attorney, the 9th day of February 1764, before me,

EDWARD GAMBLE, Register,

MORTGAGE

MORTGAGE in Fee by Bargain and Sale inrolled, of a Plantation, Slaves, &c. in St. Christopher's, with the Acknowledgment of the Husband and Wife, and the private Examination of the Wife to bar Dower.

THIS Indenture, made the fourteenth day of November, in the twenty-fourth year of the reign of our Sovereign Lord George the Second, by the Grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, and so forth; and in the year of our Lord one thousand seven hundred and fifty, Between F— P—, late of his Majesty's Island of St. Christopher in America, but at present resident in the City of London, Esq; and E— his wife of the one part, and D— O— of Great James Street, in the parish of St. Andrew, Holborn, in the county of Middlesex, Esq; of the other part: Whereas the said F— P— doth allege, that he now is lawfully and solely seized and possessed in his demesne as of fee simple, of and in, and is well entitled unto the fee simple, inheritance, and absolute property of a certain sugar-work Plantation, with the lands, dwelling-house, other houses, still-houses, works, and buildings thereon being, and thereunto belonging and appertaining, situate, lying, and being in the late French part of the said Island of St. Christopher, and in or near the parish of St. Paul Capisterre in the said Island, which, as the said F— P— doth allege, contains in the whole the quantity of ninety-four acres of cane lands, and ten acres more of mountain land, or thereabouts, and that the said Plantation is commonly called or known by the name of the C— P— of the C—, and is abutted
bound

bounded to the eastward, with the lands now or late in the possession, tenure, or occupation of D— T—, Esq; or his lessee or lessees, or under-tenant or under-tenants, and to the northward, with lands now or late in the possession, tenure, or occupation of B— M—, Esq; or of his lessee or lessees, or under-tenant or under-tenants, and to the southward, and also to the westward, with lands now or late in the possession, tenure, or occupation of G— L—, Esq; or of his lessee or lessees, or under-tenant or under-tenants; and that there are upon, and belonging to the said Plantation, one good mansion-house or dwelling-house, a cook-room, or kitchen, with stores adjoining, a wind-mill and cattle-mill, a boiling-house, a distill-house, and a stable, together with all sorts of stills, coppers, worms, tubs, coolers, utensils, implements, and appurtenances necessary for the well carrying on of the said sugar work Plantation; and that there are a large number of horses, asses, mules, bulls, sheep, hogs, goats, and other live stock and dead stock thereon, and also one hundred and twenty in number at the least, of good and able working Negro slaves, upon and belonging and appertaining to the same; and that all the same Plantation, buildings, utensils, implements, beasts, cattle, slaves, and premises, do lawfully belong unto the said F— P—, in pure fee simple, and absolute property, and are wholly and entirely free from all wills, settlements, jointures, dowers, uses, trusts, gifts, grants, sales, mortgages, leases, debts, decrees, bonds, judgments, executions, extents, levies, forfeiture, and cause and causes of forfeiture, and of and from all other claims, demands, charges, burthens, and incumbrances whatsoever, save only the quit-rent, from henceforth

forth to be payable to the Crown for the said Plantation, and one single debt or incumbrance of three thousand five hundred and eighty pounds six shillings and eight pence of lawful money of Great Britain, or to that value, which is due unto A—B— and J—B, of London, merchants and partners, and which is some how secured, together with the interest thereof, unto or for the said A—B— and J—B—, by some mortgage or security made and taken in the said Island of St. Christopher, in or about the month of April now last past: AND WHEREAS the said F—P— hath requested of the said D—O— the loan of a sum of one thousand nine hundred and nineteen pounds thirteen shillings and four pence, of lawful money of Great Britain, to answer the present occasions of the said F—P—, which sum the said D—O— hath agreed to lend him, and hath at the time of the execution of these presents actually advanced and paid into the proper hands of the said F—P—. NOW THIS INDENTURE WITNESSETH, That for the docking, barring, cutting off, defeating, and entirely destroying of all estates tail, and of all other contingent or other estates dependant or expectant upon any such estates tail, and of all remainders and reversions at any time or times heretofore made, settled, created, devised, or limited, of or concerning all and every, or any the Plantations, lands, tenements, and hereditaments herein after-mentioned, to be hereby bargained, sold, or released; or of or concerning any part or parts of the same (in case any such estates tail, remainders, reversions, or other estates there be of the same, or of any part or parts thereof) and for the barring the dower, and right and title of dower of the said E—, the wife of the said F—

P—, of, in, and to the Plantations, lands, tenements, and hereditaments herein after mentioned, to be hereby bargained, sold, or released; and for and in consideration of the sum of one thousand nine hundred and nineteen pounds thirteen shillings and four-pence of lawful money of Great Britain by the said D— O— unto the said F—P— and E— his wife, or one of them in hand, well and truly paid at or before the time of the sealing and delivery of these presents; the receipt whereof the said F— P— and E— his wife do hereby respectively acknowledge, and themselves and each of them to be therewith fully satisfied, contented, and paid, and thereof and therefrom do, and each of them doth acquit, release, and discharge the said D— O—, his heirs, executors, administrators, and assigns, and every of them, by these presents. **THEY** the said F— P— and E— his wife have, and each of them **HATH** granted, bargained, sold, aliened, remised, released, assigned, and confirmed, and by these presents, **DO** and each of them **DOTH** fully and absolutely grant, bargain, sell, alien, remise, release, assign, and confirm unto the said D— O—, his heirs, executors, administrators, and assigns (severally and respectively as herein after-mentioned), **ALL AND SINGULAR** that and those the herein before mentioned or described sugar-work Plantation, lands, dwelling-house, other houses, still-houses, works, buildings, cane lands, mountain land, mansion-house, cook-room or kitchen, stores, wind-mill, cattle-mill, boiling-house, distill-house, stable, stills, coppers, worms, tubs, utensils, implements, appurtenances, horses, asses, mules, bulls, sheep, hogs, goats, live stock, dead stock, Negroes, and premises, with their and every

of their respective appurtenances in whatsoever parish or place within the late French part of the said Island of St. Christopher, the same or any part thereof, do or doth lie, or are or is situate, standing, lying, or being; and whatever quantity or number of acres the same or any part thereof do or doth contain, and by what name or names soever the same, or any part thereof, now are or is, or at any time or times heretofore, have or hath been called, known, named, or distinguished, and however the same and every, or any particular part or parts thereof, do or doth abut or bound, or have or hath abutted or bounded, and whatsoever other mistake, misinformation, or other error, defect, or imperfection there may be in the before-mentioned description, or mention of the same: **AND ALSO ALL AND SINGULAR OTHER** the sugar-work Plantations, and other Plantations, cane lands, mountain lands, and other lands and hereditaments (being parcel of the late French lands in the said Island of St. Christopher) of them the said F — P — and E — his wife, and of each of them; or whereof, or wherein, or whereto they, or either of them, are possessed or intitled unto any estate, right, title, or interest, situate, lying, or being in every and any parish or place in the said Island of St. Christopher, within that which was lately the French part of the said Island, whatsoever the names, contents, quantities, qualities, numbers, situations, abutments, boundaries, or other descriptions of the same may be: **AND** all mansion-houses, dwelling-houses, messuages, tenements, still-houses, works, edifices, erections, and buildings whatsoever, upon the same: **AND ALL** and every the stills, coppers, worms, tubs, coolers, utensils, imple-
ments,

ments, and appurtenances which now are, or which at any time or times hereafter shall be to the same, or any of them belonging, or in any wise appertaining: AND ALL and every the horses, asses, mules, bulls, sheep, hogs, goats, cattle, beasts, live stock, and dead stock, which now are, or which at any time or times hereafter shall be upon, or belonging to, or in any wise esteemed, deemed, reputed, or taken to be upon or belonging to any of the premises: AND ALL and singular the Negro slaves, and other slaves, of every age, sex, or capacity, sort and kind belonging unto, or to belong unto, or be the property of the said F—— P—— and E—— his wife, or either of them, or their or either of their heirs, executors, or administrators (how many soever they are, or shall be in number) which now do or are, or at any time or times hereafter shall belong or be appertaining unto, or be wrought, worked, used, or any way employed in, upon, about, or for the said plantations, lands, tenements, houses, or any of the premises aforesaid, or any part of the same, or which are or shall be in any wise esteemed, deemed, reputed, or taken to be belong or appertain unto, or to be wrought, worked, used, or in any way employed in, upon, about, or for the said plantations, lands, tenements, houses, or any of the premises aforesaid, or any part or parts of the same: AND ALL issues, progenies, and increase of the said slaves: AND ALL and singular other the appurtenances to any of the said premises: AND the reversion and reversions, remainder and remainders yearly, and other rents, issues, proceeds, produce, and increase of all and singular the premises, and of every part and parcel thereof, with their
and

and every of their rights, members, incidents, and appurtenances: AND ALL the estate, right, title, interest, term and terms for years, inheritance, property, power, use, trust, equity, and benefit of redemption, dower, right, and title of dower, and other claims and demands whatsoever of the said F—— P—— and E—— his wife, and of each of them, and of their, each and every of their issue, and of their, each and every of their heirs, executors, administrators, and trustees, whether at law or in equity, or otherwise howsoever, of, in, and to all and singular, or any the premises herein beforementioned, or any part or parts of the same. AND ALL AND EVERY the contracts, grants, confirmations, patents, plans, surveys, conveyances, deeds, settlements, wills, sales, bills of sale, mortgages, counterparts of mortgages, bonds, judgments, executions, levies, devices, assignments, copies of records, title deeds, and other writings, instruments, lists of negroes, and evidences whatsoever, relating to the premises, or to any part or parts of the same, which the said F—— P—— and E—— his wife, or either of them, or their or either of their heirs, executors, administrators, trustees, attornies, managers, overseers, or other agents, or any of them now have or hath, or at any time or times hereafter shall or may have in their or in any of their hands, possession, custody, or power, or which, he, she, they, every or any of them, shall or may have at any time or times hereafter be able to have or come by in any way or manner, without suit at law or in equity for the same. TO HAVE AND TO HOLD so much, and so many and such parts of all and singular the hereditaments and premises herein before granted, bargained, or re-

leased, or meant, mentioned, or intended so to be, as are or shall be of the nature of real estate or inheritance unto the said D— O—, his heirs and assigns from henceforth for ever, to the only proper use and behoof of the said D— O—, his heirs and assigns from henceforth for evermore, and to or for no other use, trust, intent, or purpose whatsoever. **AND TO HAVE AND TO HOLD** so much and so many, and such parts of all and singular the premises herein before granted, bargained, sold, or assigned, or meant, mentioned, or intended so to be, as are or shall be of the nature of personal estate unto the said D— O—, his executors, administrators, and assigns, from henceforth for ever; and for and during all such other or lesser terms, estates, and interests, as the said F— P— and E— his wife have, or either of them hath therein severally and respectively; **TO AND FOR** the only proper benefit of the said D— O—, his executors, administrators, and assigns, and as his and their own proper goods, chattels, and effects, and to and for no other trust, intent, or purpose whatsoever; and all and singular the sugar work plantations, other plantations, cane lands, mountain lands, other lands, hereditaments, mansion-houses, dwelling-houses, messuages, tenements, still-houses, works, edifices, erections, buildings, stills, coppers, worms, tubs, coolers, utensils, implements, horses, asses, mules, bulls, sheep, hogs, goats, cattle, beasts, live stock, dead stock, Negro slaves, other slaves, issues, progenies, increase, reversions, remainders yearly, and other rents, issues, profits, proceeds, produce, rights, members, incidents, and other the premises herein before granted, bargained, sold, aliened, remised, released, assigned,

or

or confirmed, or meant, mentioned, or intended so to be, with their and every of their appurtenances unto the said D— O—, his heirs and assigns, and unto the said D— O—, his executors, administrators, and assigns, severally and respectively, according to the several natures of the premises respectively, the said F— P—, his heirs, executors, and administrators, doth and hereby do warrant, and for ever defend; and by these presents shall and will for ever warrant and defend against the said F— P—, his heirs, executors, administrators, and assigns, and against the said E—, the wife of the said F— P—, and against all manner of person and persons whatsoever, save only as against the said A— B— and J— B—, and their heirs, executors, administrators, and assigns, in respect only of the said debt or sum of three thousand five hundred and eighty pounds, six shillings, and eight pence; and in respect of the mortgage or security, which was made in Saint Christopher's for that debt only, upon the premises herein before bargained or sold, or meant, mentioned, or intended so to be, or upon some part or parts of the same; and the said F— P— for himself, his heirs, executors, and administrators, and for each and every of them, doth covenant, promise, grant, and agree to and with the said D— O—, his heirs, executors, administrators, and assigns, and to and with each and every of them, by these presents, in manner and form following: That is to say, that they the said F— P— and E— his wife now, at the time of the sealing and delivery of these presents, are and stand, or one of them is and standeth lawfully and absolutely seized in their or in his demesne as of fee-simple, and in full and

absolute property of and in all and singular the said sugar work plantations, other plantations, cane lands, mountain lands, other lands, hereditaments, messuages, tenements, buildings, utensils, implements, cattle, beasts, live stock, dead stock, Negro slaves, other slaves, and all and singular other the premises herein before granted, bargained, or sold, or meant, mentioned, or intended so to be, and of every part and parcel of the same, with their and every of their rights, members, incidents, and appurtenances, of a good, sure, clear, perfect, absolute, and indefeasible estate of inheritance in fee-simple, and of the whole, full, and absolute power, interest, and property in the same, without any condition, forfeiture, limitation of use or uses, trust, or other restraint, matter, cause, or thing whatsoever, to forfeit, determine, alter, change, charge, burthen, incumber, evict, or defeat the same, in any manner or wise. And that the said F—— P—— and E—— his wife, now have, or one of them hath in themselves, or in himself or herself, good right, true title, full power, and lawful and absolute authority to grant, bargain, sell, alien, remise, release, assign, and confirm all and singular the hereditaments, and other the premises herein before granted, bargained, sold, aliened, remised, released, assigned, or confirmed, or meant, mentioned, or intended so to be, and every part and parcel of the same, with their and every of their appurtenances, unto and to the use of the said D—— O——, his heirs and assigns, and unto the said D—— O——, his executors, administrators, and assigns (according to the several natures of the respective parts of the premises), from time to time, and at all times hereafter to
 or into, have, hold, and enjoy all and singular the

the said hereditaments, and other the premises herein before granted, bargained, or sold, or meant, mentioned, or intended so to be, and every part and parcel of the same, with their and every of their appurtenances, and the yearly and other rents, issues, profits, proceeds, produce, and increase of the same, to have, receive, take, and enjoy to his and their own use and benefit, from henceforth for evermore, without any the lawful let, suit, trouble, denial, hindrance, eviction, molestation, interruption of or by the said F—— P—— and E—— his wife, or either of them, or of or by their or any of their issue, heirs, executors, administrators, assigns, trustees, or agents, or of or by any other person or persons whatsoever lawfully claiming, or to claim, by, from, under, in trust for, or to the use of every and any other person whatsoever. AND THAT free and clear, and freely and clearly, and absolutely freed, acquitted, exonerated, released, and discharged, or otherwise upon request at all times well and sufficiently saved and kept harmless, and indemnified by the said F—— P——, his heirs, executors, and administrators, or by some or one of them, of, from, and against all and all manner of former and other titles, gifts, grants, forfeitures, conditions, bargains, sales, mortgages, assignments, wills, settlements, uses, trusts, debts, decrees, judgments, executions, dower, right, and title of dower, charges, burthens, claims, demands, and incumbrances whatsoever, at any time or times heretofore created, incurred, charged, or settled, or secured, had, made, done, or committed, or at any time or times hereafter to be created, incurred, charged, or settled, or to be secured, had, made, done, or committed by any person or persons whatsoever, of the same premises, (

§13 *Confirmation of the British Colonies*

any part or parcel thereof, in any manner or wise, And that the said F — P — and E — his wife, and each of them, and their and either of their heirs, executors, administrators, and assigns, and all and every person and persons whatever, any estate, right, title, trust, interest, or demand, lawfully having or claiming, or which he, she, or they shall or may at any time hereafter lawfully have or claim to have, of, in, to, upon, or out of all and every the hereditaments and premises herein before granted, bargained, or sold, or meant, mentioned, or intended to be, or any part or parts of the same, or their or any of their appurtenances (save only the said A — B — and J — B —, and their several and respective heirs, executors, administrators, assigns, trustees, attornies, and agents, for and in respect of such mortgage or security, as has been made to them, or some or one of them, in the said Island of Saint Christopher, of the said hereditaments and premises, or of some part or parts thereof, for securing the principal sum of three thousand five hundred and eighty pounds six shillings and eightpence only, and no more, with interest for the same) shall and will from time to time, and at all times hereafter, upon the request of the said D — O —, his heirs, executors, administrators, or assigns, or any of them, but at the proper costs and charges of the said F — P —, his heirs, executors, and administrators, or of some or one of them, make, do, execute, acknowledge, and perfect, or cause or procure to be made, done, executed, acknowledged, and perfected, all and every such farther lawful and reasonable act and acts, deed and deeds, instruments, devices, conveyances, assignments, and assurances in the law whatsoever, for the further
better

better and more sure and absolute assigning, conveying, assuring, and sure making of all and singular the hereditaments and premises herein before granted, bargained, or sold, or meant, mentioned, or intended so to be, or of any part or parts thereof, with their and every of their appurtenances, unto and to the use of the said D—— Q——, his heirs and assigns, and unto the said D—— O——, his executors, administrators, and assigns (severally and respectively, according to the several natures of the respective parts of the premises so to be further assigned, conveyed, or assured) in such way and manner, and by such sort of deeds, instruments, assignments, assurances, conveyances, and other acts and matters, and attended with such acknowledgments and private examinations of the parties to the same, and with such other circumstances and solemnities, as by the said D—— O——, his heirs, executors, administrators, or assigns, or any of them, or his, their, or any of their Counsel learned in the law, shall be lawfully and reasonably advised, or devised and required, so as such further assignments or assurances contain no further or other greater warranty or covenant, than against the parties making and executing the same, and his and their ancestors, and his or their acts and deeds, and so as for the making or doing thereof, no person shall be compelled or compellable to travel more than twenty miles from the place of their then present abode or residence. AND FURTHER, That the said F—— P—— and E—— his wife, shall within three days next ensuing, the day of the date of these presents, in due form of law, acknowledge their respective executions of the present indenture, and also of a duplicate of the same, before some of the Justices of the Peace for the County of Middlesex.

Court of Common Pleas at Westminster: **AND** that, on such occasion, the said E— shall be privately and apart from the said F— P—, examined before such Judge, and will thereon declare, that she executed the same, and makes such acknowledgment thereof, of her own pure and free will and voluntary consent, and without any force, compulsion, menace, threat, dread, or fear of her said husband, in any sort or on his part used: **AND** that the said F— P— will, within such three days, also acknowledge these presents, and a duplicate thereof, and his execution of the same, before one of the Masters of the High Court of Chancery of Great Britain, and will consent and desire that these presents, and such duplicate, may be enrolled at full length in the said Court; **AND** will procure these presents, and such duplicate, to be enrolled at full length, in the said Court of Chancery, within ten days next ensuing the day of the date of these presents; and also shall and will forthwith hereafter cause and procure these presents, and such duplicate, and the execution of the same, to be duly proved on oath before the Lord Mayor of the city of London; and such proof thereof, and a testimonial or certificate of the same to be in the usual and proper manner annexed to these presents, and to such duplicate, under the Seal of the said city of London; **AND** forthwith hereafter will cause these presents, and the duplicate thereof, and the execution of both the same by the said F— P— and E— his wife, to be duly acknowledged in the said Island of St. Christopher, by some person or persons to be lawfully empowered to do the same, before all proper persons and officers there; and afterwards to be forthwith duly enrolled and recorded, at full

full length, in the proper offices and places in the said Island, in order to give the utmost force and validity to the same; AND that all the same matters and things shall be done at the costs and expences of the said F—— P——, his heirs, executors, or administrators; and in the best manner, and with as much expedition as the same may reasonably be done: AND MORE-OVER the said F— P— doth hereby desire and direct all and every his present and future attorneys, counsel, managers, overseers, and agents, in the said Island, immediately upon demand thereof, to deliver up, from time to time; unto the said D—— O——, or his heirs, executors, and administrators, or unto his or their attorneys or attorney, by list or schedule, all such of the grants, deeds, copies of records, lists of Negroes, and other writings whatsoever, relating to the premises, or any part of the same, which the said F—— P—— hath herein before mentioned to bargain, sell, or assign unto the said D—— O——, whole, fair, and uncanceled; or so much and so many of the same, as shall be in their or any of their hands, possession, custody, or power, or which they, or any of them, may or can any way come by, without suit in law or equity. AND the said F— P— doth hereby, for himself and for his heirs, executors, and administrators, and for each and every of them, covenant, promise, grant, and agree to, and with the said D—— O——, his heirs, executors, and administrators, and to and with each and every of them, that all such grants, deeds, copies of records, lists of Negroes, and other evidences, as are herein before mentioned, to be hereby bargained, sold, or assigned, shall from time to time be delivered, whole, fair, and uncanceled,

cancelled, unto the said D— O—, or his heirs, executors, administrators, or his or their attornies or attorney in the said Island, pursuant to the true intent and meaning of these presents : **AND MOREOVER**, that the said F— P—, his heirs and assigns, so long as he or they shall be in the possession of the said Plantations, or any of them ; or if he or they shall not be in the said Island, then his or their attornies or attorney, or managers or manager, in the said Island, shall, once in every year, upon demand, and if demanded deliver, from time to time, unto the said D— O—, his heirs, executors, and administrators, or his or their attornies or attorney in the said Island, a true list, signed by or in behalf of the said F— P—, his heirs and assigns, of all the Negroes and slaves which, from time to time, shall be upon, or belong to, all and every the said plantations, and other the premises, for the better information of the said D— O—, his heirs, executors, and administrators, in the premises : **PROVIDED ALWAYS**, and these presents are upon this condition nevertheless, which is hereby agreed upon by and between the said parties to these presents, That, if the said F— P—, his heirs, executors, administrators, or some or one of them, do and shall well and truly pay, or cause to be paid unto the said D— O—, his executors or administrators, at or in the dwelling-house of the said D— O—, situate in Great James Street aforesaid, the full sum of two thousand and fifteen pounds thirteen shillings, of lawful money of Great Britain, in manner and form following : that is to say, the sum of forty-seven pounds, nineteen shillings, and ten-pence, part thereof on the fifteenth day of May next ensuing the

the day of the date of these presents; and the sum of one thousand nine hundred and sixty-seven pounds, thirteen shillings, and two-pence, residue and in full payment thereof, on the fifteenth day of November then next ensuing, and which will be in the year of our Lord, one thousand seven hundred and fifty-one, without any delay, deduction or abatement, for or in respect of any charges, taxes, or assessments charged, taxed, or imposed, or to be taxed, charged, or imposed, by any Act or Acts of Parliament, or by any Act or Acts of Assembly, or for or in respect of any other matter, cause, or thing whatsoever; then these presents, and the bargain, sale, conveyance, and assignment, and every other matter and thing herein contained, shall cease, determine, and be null and void, to all intents and purposes, as if the same had never been made or executed; these presents, or any thing herein contained, in any wise to the contrary thereof notwithstanding. And the said F— P—, for himself, his heirs, executors, and administrators, and for each and every of them, doth covenant, promise, grant, and agree to, and with the said D— O—, his executors, administrators, and assigns, in manner following: that is to say, that he the said F— P—, his heirs, executors, or administrators, shall and will, at or in the place herein before mentioned and appointed for such payment, well and truly pay, or cause to be paid, unto the said D— O—, his executors, administrators, or assigns, the said full sum of two thousand and fifteen pounds, thirteen shillings, of lawful money of Great Britain, and every part thereof, in the manner, and at the days and times in the foregoing proviso mentioned or appointed for payment of the same; and

and without any delay, deduction, or abatement, for or in respect of any charges, taxes, or assessments, charged, taxed, or imposed, or to be charged, taxed, or imposed, by any Act or Acts of Parliament, or by any Act or Acts of Assembly, or for or in respect of any other matter, cause, or thing whatsoever, in full performance of the foregoing proviso or condition, and according to the true intent and meaning of these presents. AND IT IS agreed by and between the said parties to these presents, that, until some breach or default shall happen to be made in performance of the proviso or condition herein before contained, either in the whole or in a part thereof, it shall and may be lawful to and for the said F— P—, his heirs and assigns, to hold and enjoy the hereditaments and premises herein before conveyed and assigned, and every part thereof, and to receive and take the rents, issues, and profits of the same, to his and their own use and benefit, without rendering any account, or payment of or for the same, or any part thereof, unto the said D— O—, his heirs, executors, or administrators, or any of them, in any manner or wise; these presents, or any thing herein before contained, to the contrary thereof in any wise notwithstanding. AND LASTLY, the said F— P— and E— his wife, and D— O—, have, and each and every of them hath, authorized and impowered, and by these presents DO, and each and every one of them DOTH, fully authorize and empower R— P—, W— B—, J— L—, and R— P—, of the said Island of St. Christopher, Esquires, or any three or two of them jointly, and each one of them singly and separately, to appear before all proper officers and persons whatsoever, in the said Island of St. Christopher;

Christopher; and to acknowledge the several and respective signing, sealing, and delivery, by each one of them the said F— P— and E— his wife, and D— O—, of these presents, and their several and respective hands and seals set thereto; and to consent and procure that these presents be duly enrolled, registered, and recorded, in all proper offices and places within the said Island of St. Christopher, according to the laws, customs, usages, and practice, in force and observed in the said Island, in order to give the utmost strength, force, and validity hereto. In witness whereof the parties before named to these presents their hands and seals have hereunto set, the day and year first above written.

F— P—. (L. S.)

Signed, sealed, and delivered by the within named the Mark of E— + P—. (L. S.)

F— P— and E— his D— O—. (L. S.)

wife, and D— O—, parties to the within written Indenture, in the presence of us, the said E— P— signing the same, by making her Mark on each side of the second or middle Seal within affixed.

F— J— P—.

F— E—.

RECEIVED the day and year first
within written, of and from the
within named D— O—, the
full sum of one thousand nine
hundred and nineteen pounds,
thirteen shillings, and four pence,
of lawful money of Great Britain,
being the consideration-money
within mentioned, to be by him
to us paid; we say received by
us,

L. s. d.
1919 13 4

F— P—.
The Marks of
E— +— +— P—.

WITNESSES to the payment of the sum of
one thousand nine hundred and nineteen pounds,
thirteen shillings, and four pence, to the within
named F— P—, and E— his wife, or one
of them, and to their signing this receipt for the
same, the said E— signing by two marks or
crosses, instead of her names.

F— J— P—.
F— E—.

BE IT REMEMBERED, That on the 14th
day of November, one thousand seven hundred
and fifty, before me Sir Thomas Birch, Knight,
one of the Justices of his Majesty's Court of Com-
mon Pleas at Westminster, personally appeared
F— P—, Esq; and E— his wife,
parties within named to the within written Inden-
ture, and did, in pursuance of a certain Act of
Assembly of his Majesty's Leeward Charibbee
Islands in America, severally acknowledge, that
each one of them, severally and respectively, did
sign,

sign, or mark and seal, and as his and her several act and deed deliver the said within written Indenture, and that the several and respective names or marks, and seals of the said F—— P—— and E—— his wife, set at the foot of the same within written Indenture, in such manner as they now severally and respectively appear thereto, was, were, and is, and are of their several and respective proper hand-writing and sealing: And moreover, the said E—— being by me privately examined, separate and apart from her said husband, did declare, That she executed the said Indenture, and made the before mentioned acknowledgment of the same of her own free will and voluntary consent, without any force, compulsion, threat, or menace, used by her said husband in any sort. All which I do hereby certify, pursuant to the above mentioned Act of Assembly: Witness my hand hereunto set the day and year last above mentioned.

THOMAS BIRCH.

INROLLED in his Majesty's High Court of Chancery another part of this Indenture, the fifteenth day of November, in the year within written, being first duly stamped, according to the tenor of the statute, made in the sixth year of the reign of their late Majesty's King William and Queen Mary.

By GEORGE ECKERSALL.

* I DO hereby certify, That the within Instrument of Writing, and annexed Attestation Bond (No. 4567) were entered in the R

* This Certificate of the Register ought to after the Attestation and Bond, p. 534.

Office in St. Christopher's, on Thursday the second day of May, in the year of our Lord one thousand seven hundred and fifty-one, about five of the clock in the afternoon of the same day, in pages 191, &c.—Libri Q.

WIL. BUCKLEY, Reg.

TO all to whom these presents shall come, I Francis Cokayne, Esq; Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the fifth year of the reign of our Sovereign Lord King George the Second, intituled, An Act for the more easy recovery of debts in his Majesty's Plantations and Colonies in America, do hereby certify, That on the day of the date hereof, personally came and appeared before me F—— E—— of Child's Court in the Strand, in the parish of St. Martin in the Fields, in the County of Middlesex, in the Kingdom of Great Britain, Gentleman, being a person well known and worthy of good credit; and did by solemn oath, which he took upon the Holy Evangelists of Almighty God, solemnly declare, testify, and depose to be true, the several matters and things contained in the Affidavit hereunto annexed.



In faith and testimony whereof, I the said Lord Mayor have caused the seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, and the parchment Indenture and Bond mentioned in the said Affidavit to be also hereunto annexed, dated in London the nineteenth day of November, in the twenty-

twenty-fourth year of the reign of our Sovereign Lord George the Second, by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, and in the year of our Lord one thousand seven hundred and fifty.

MAN.

F—— E—— of Child's Court in the Strand, in the parish of St. Martin in the Fields, in the County of Middlesex, in the Kingdom of Great Britain, Gentleman, maketh oath, That he was personally present as a witness, and did see and hear F—— P——, and E—— P—— his wife, and D—— O——, parties to the parchment-writing or Indenture hereunto annexed, severally and respectively sign, or mark and deliver the said Parchment-writing or Indenture hereunto annexed: AND THAT the name F— P—, set and subscribed to the same Parchment-writing or Indenture, at the foot or end thereof, at the first seal there affixed, as the name of one of the parties executing the same, in such manner as the same now appears thereto, was, and is of the proper hand-writing of the said F— P—: AND THAT the two marks or crosses appearing set and subscribed to the same Parchment-writing, at the second seal at the foot or end thereof, as the marks of the said E——, one of the parties executing the same Indenture, in such manner as the same now appears thereto, was and were, and is and are of the proper marking or signing of the said E— P—: AND THAT the name D— O——, also set and subscribed to the same Parchment-writing or Indenture, at the foot or end thereof, at the third and last seal there, as the name of the

M m

other

other of the parties executing the same, in such manner as the same now appears thereto, was and is the proper hand-writing of the said D— O— : AND THAT the name F— E—, set and subscribed to the Attestation written on the backside of the same Parchment Indenture, as the name of one of the two witnesses attesting the signing, sealing, and delivery thereof, by the said F— P— and E— his wife, and D— O—, in such manner as the same now appears thereto, was and is of the proper hand-writing of this Deponent : AND THAT the name F— J— P—, also set and subscribed to the same attestation, as the name of the other of the two witnesses attesting the execution of the same Indenture, in such manner as the same now appears thereto, was and is of the proper hand-writing of F— J— P—, of Surry Street in the Strand, in the parish of St. Clement Danes, in the said County of Middlesex, Gentleman, and was by him so thereunto set and subscribed, in the presence of this Deponent : AND this Deponent was also present, and did see the said F— P— sign his name, and the said E— set or sign her marks and crosses to the receipt indorsed or written on the backside of the same Parchment Indenture : AND THAT the name F— P—, set and subscribed to the same receipt, in such manner as the same now appears thereto, was and is of the proper hand-writing of the said F— P— : AND THAT the two marks or crosses appearing set and subscribed to the same attestation, as the marks or crosses of the said E— P—, in such manner as the same now appears thereto, was and were, and is and are of the proper marking or signing of the said E— P— : AND THAT the name F— E—, set and subscribed to the same attestation, as the name of one of

of the two witnesses to the payment of the consideration-money, and to the signing or marking the said receipt, by the said F— P— and E— his wife, respectively, in such manner as the same now appears thereto, was and is of the proper hand-writing of this Deponent: AND THAT the name F— J— P—, set and subscribed to the same receipt, as the name of the other of the two witnesses to the same, in such manner as the same now appears thereto, was and is of the proper hand-writing of the herein before-named F— J— P—, and was by him so thereunto also set and subscribed, in the presence of this Deponent: AND FURTHER, this Deponent saith, That he was also personally present as a witness, and did see and hear the said F— P— sign, seal, and as his act and deed deliver the Paper-writing or Bond also hereunto annexed: AND THAT the name F— E—, set and subscribed to the attestation written at the end of the same condition, as the name of one of the two witnesses attesting the signing, sealing, and delivery of the same Paper-writing or Bond, in such manner as the same now appears thereto, was and is of the proper hand-writing of this Deponent: AND THAT the name F— J— P—, also set and subscribed at the foot or end of the same condition, as the name of the other of the two witnesses attesting the execution of the same, in such manner as the same now appears thereto, was and is of the proper hand-writing of the before named F— J— P—, and was by him so thereunto set and subscribed, in the presence of this Deponent,

Sworn the 19th day of No- F— E-
 vember 1750, before me,
 in London,

F. COKAYNE, Mayor.

KNOW ALL MEN by these presents, That I F—— P ——, late of his Majesty's Island of St. Christopher in America, but at present resident in the City of London, Esq; am held and firmly bound unto D—— O——, of Great James Street, in the parish of St. Andrew, Holborn, in the County of Middlesex, Esq; in the full sum of three thousand eight hundred thirty and nine pounds six shillings and eight pence, of good and lawful money of Great Britain, to be paid unto the said D— O—, his executors, administrators, or assigns, or his or their certain Attorney or Attorneys, to the which payment, well and truly to be made, I hereby bind and oblige myself, my heirs, executors, and administrators, and each and every of them firmly, by these presents, SEALED with my Seal, and dated this fourteenth day of November, in the twenty-fourth year of the reign of our Sovereign Lord George the Second, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth, and in the year of our Lord one thousand seven hundred and fifty.

THE condition of the above written obligation is such, That if the above bounden F—— P——, his heirs, executors, or administrators, or some or one of them, do and shall well and truly pay, or cause to be paid, unto the said D—— O——, his executors or administrators, at or in the dwelling-house of the said D—— O——, situate in Great James-street above mentioned, the full sum of two thousand and fifteen
pou.nds

pounds and thirteen shillings of lawful money of Great Britain, in manner and form following: that is to say, the sum of forty-seven pounds nineteen shillings and ten pence, part thereof, on the fifteenth day of May next ensuing the day of the date of the above written obligation, and the sum of one thousand nine hundred sixty and seven pounds thirteen shillings and two pence, residue and in full payment thereof, on the fifteenth day of November then next ensuing, and which will be in the year of our Lord one thousand seven hundred fifty and one, without any delay, deduction or abatement for or in respect of any charges, taxes or assessments charged, taxed or imposed, or to be taxed, charged or imposed by any Act or Acts of Parliament, or by any Act or Acts of Assembly, or for or in respect of any other matter, cause or thing whatsoever. AND ALSO do and shall well and truly pay, perform, fulfil, observe and keep all and singular other the payments, covenants, conditions, provisos and agreements which, in a certain Indenture bearing even date with the before written obligation, and made or mentioned to be made between the said F—— P—— (by the description before mentioned) and E—— his wife of the one part, and the said D—— O—— (by the description also before mentioned) of the other part, are contained, and which on the part and behalf of the said F—— P——, his heirs, executors or administrators, or of any of them, are or ought to be paid, performed, done, fulfilled, observed or kept. AND THAT AND THOSE in and by all things, and in every respect according to the purport and true intent and meaning of the said Indentures, and of the covenants, conditions, provisos and agre

ments therein contained; then the before writt
obligation to be void and of none effect, othe
wife to stand and remain in full force and virtu

F—— P—— (L. S

Signed, sealed and delivered
by the before named F—
P—, Esq; in the presence
of us,

F—— J—— P——,

F—— E——,

*MORTGAGE in Fee (by Lease and Release) by Hu
band and Wife, of Lands and Negroes in Jamaica
The Conveyance being executed in London; the p
vate Examination of the Wife to bar Dower, wa
taken before the Lord Mayor there, agreeable
the Laws of Jamaica.*

The LEASE for a YEAR,

THIS Indenture, made the thirteenth day
November, in the seventeenth year of the reig
of our Sovereign Lord George the Third, by th
Grace of God, of Great Britain, France and Ir
land, King, Defender of the Faith, &c. an
in the year of our Lord, one thousand seven hur
dred and seventy-six, between J—— N—— (the parish of T—— in the Island of Jamaica
Esq; but now in London, of the one part, an
J—— M—— and T—— S—— of the City (London, merchants, of the other part, witnessed
That the said J—— N——, for and in conside
ration of the sum of five shillings of lawful mone
of Great Britain to him in hand well and trul
paid by the said J—— M—— and T—— S——
at or before the sealing and delivery of thes
presents, the receipt whereof is hereby acknow
ledged, he the said J—— N—— hath bargain
and sold, and by these presents doth bargain an
fel

sell unto the said J — M — and T — S —, their executors, administrators and assigns, all that Plantation and Sugar Work, commonly called and known by the name of R —, situate, lying, or being at or near M —, in the said parish of T — in the Island of Jamaica, containing by estimation five hundred acres, be the same more or less, butting and bounding easterly on W — Plantation, belonging to the heirs of J — D —, deceased, westerly on the heirs of J — L —, deceased, northerly on P — Plantation, belonging to J — C —, and southerly on S — Plantation, belonging to the heirs of B — B —, deceased, and all messuages, mills, mill-houses, boiling-houses, curing-houses, still-houses, and all other houses, out-houses, edifices, erections and buildings on the said Plantation and lands, or any part thereof, erected or built, and all ways, paths, passages, waters, water-courses, woods, underwoods, commons, and common of pasture, feedings, fishings, fishing places, easements, privileges, profits, commodities, emoluments, advantages, hereditaments and appurtenances whatsoever to the said Plantation and lands, or any part thereof, belonging or in any wise appertaining, or therewith or to, or with any part or parcel thereof usually held, occupied, possessed or enjoyed or accepted, reputed, deemed, taken, or known as part, parcel or member thereof, or of any part thereof. AND also all and every the Negro and other Slaves now upon and belonging to the said Plantation, and particularly mentioned and set down in the schedule hereunder written (being in number ninety-eight) and the reversion and reversions, remainder and remainders, rents, issues and profits of the said Plantation and Sugar Work, lands, tenements,

ments, Slaves, and hereditaments, and of every part and parcel thereof. **TO HAVE AND TO HOLD** the said Plantation and Sugar Work, lands, tenements, Slaves, hereditaments, and all other the premises mentioned or intended to be hereby bargained and sold, with their and every of their issue, increase, rights, members and appurtenances unto the said J— M— and T— S—, their executors, administrators and assigns, from the day next before the day of the date of these presents, for and during and unto the full end and term of one whole year, from thence next ensuing, and fully to be complete and ended, yielding and paying therefore at the end of the said term the rent of one pepper corn, if the same shall be lawfully demanded. **TO THE INTENT**, That by virtue of these presents, and of the Statute for transferring uses into possession, they the said J— M— and T— S— may be in the actual possession of the said Plantation, Sugar Work, lands, tenements, Slaves, hereditaments, and all and singular other the premises mentioned or intended to be hereby bargained and sold, with their and every of their issue and increase, rights, members and appurtenances, and thereby be enabled to accept and take a grant and release of the reversion and inheritance thereof to them, their heirs and assigns, in such sort, manner and form as shall be declared in an Indenture of release intended to bear date the day next after the day of the date hereof, and made or mentioned to be made between the same parties as are parties to these presents. In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

The schedule to which the above Indenture refers: Men, 1. Antigua, Essex, Quamin (and fifty-five more named in the schedule under the deed). Boys, Little Thomas (and three more named in the schedule under the deed). Women, Nancy, Senia (and twenty-four more named in the schedule under the deed).

J— N— (L. S.)

Sealed and delivered (being first duly stampd) in the presence of

R— C— L—.
J— B—.

The RELEASE.

THIS INDENTURE made the fourteenth day of November, in the seventeenth year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland King, Defender of the Faith, &c. and in the year of our Lord one thousand seven hundred and seventy-six, between J— N— of the parish of T—, in the Island of Jamaica, Esq; but now in London, and A— his wife, of the one part, and J— M— and T— S— of the City of London, merchants, of the other part, witnesseth, That for and in consideration of the sum of four thousand pounds of good and lawful money of Great Britain, to the said J— N— in hand well and truly paid by the said J— M— and T— S—, at or before the sealing and delivery of these presents, the receipt whereof the said J— N— doth hereby acknowledge and thereof and from every part thereof, doth

quo

quit, release and discharge the said J—— M—— and T—— S——, their executors, administrators, and every of them, for ever; by these presents, they the said J—— N—— and A—— his wife have, and each of them hath, granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents do, and each of them doth, grant, bargain, sell, aliene, release, convey and confirm unto the said J—— M—— and T—— S——, in their actual possession now being, by virtue of a bargain and sale to them thereof made by the said J—— N——, in consideration of five shillings, by Indenture bearing date the day next before the day of the date of these presents, for one whole year, commencing from the day next before the day of the date of the said Indenture of bargain and sale, and by force of the Statute made for transferring of uses into possession, and to their heirs and assigns, All that Plantation and Sugar Work commonly called and known by the name of R——, situate, lying and being at or near M——, in the said parish of T——, in the Island of Jamaica, containing by estimation five hundred acres (be the same more or less) butting and bounding easterly on W—— Plantation, belonging to the heirs of J—— D——, deceased, westerly on the heirs of J—— L——, deceased, northerly on P—— Plantation, belonging to J—— C——, and southerly on S—— Plantation, belonging to the heirs of B—— B——, deceased, and all messuages, mills, mill-houses, boiling-houses, curing-houses, still-houses, and all other houses, out-houses, edifices, erections and buildings on the said Plantation and lands, or any part thereof, erected or built, and all ways, paths, passages, waters, water-courses, woods, underwoods, common,

mon, and common of pasture, feedings, fishings, fishing-places, easements, privileges, profits, commodities, emoluments, advantages, hereditaments and appurtenances whatsoever to the said Plantation and lands, or any part thereof belonging, or in any wise appertaining, or therewith or to, or with any part or parcel thereof, usually held, occupied, possessed or enjoyed, or accepted, reputed, deemed, taken or known as part, parcel, or member thereof, or of any part thereof; and also all and every the Negro and other Slaves now upon, or belonging to, the said Plantation, and particularly mentioned and set down in the schedule hereunder written (being in number ninety-eight) and the reversion and reversions, remainder and remainders, rents, issues and profits of the said Plantation and Sugar Work, lands, tenements, Slaves and hereditaments, and of every part and parcel thereof; and also all and every the mules, steers, neat cattle, and other live stock upon or belonging to the said Plantation, and mentioned and set down in the said schedule hereunder written, and all coppers, stills, worms, worm-tubs, ladles, skimmers, drips, pots, pans, Plantation utensils and implements of planting, upon or belonging to the said Plantation, and also all the estate, right, title, interest, property, inheritance, claim, and demand whatsoever, both at law and in equity, of them the said J— N—, and A— his wife, of, in, and to the said plantation and sugar-work, lands, tenements, slaves, hereditaments, and other the premises herein before granted and released, or intended so to be, and every part and parcel thereof, and all deeds, evidences, letters patent, muniments and writings touching or concerning the said hereditary premises, or any part or parcel thereof,

of, TO HAVE AND TO HOLD the said plantation and sugar-work, lands, tenements, slaves, hereditaments, mules, steers, neat cattle, and other live stock, and all other the premises mentioned, or intended to be hereby granted and released with their and every of their issue and increase, rights, members, and appurtenances unto the said J—— M—— and T—— S——, their heirs, executors, administrators and assigns, to the only proper use and behoof of the said J—— M—— and T—— S——, their heirs, executors, administrators and assigns respectively for ever, according to the nature and quality of the same premises respectively, subject always nevertheless, to such proviso of redemption as is herein-after contained, that is to say, PROVIDED ALWAYS, and it is hereby declared and agreed by and between the said parties hereto, and it is the true intent and meaning of these presents, that if the said J—— N——, his heirs, executors or administrators, or any of them, do and shall well and truly pay, or cause to be paid unto the said J—— M—— and T—— S——, their executors, administrators or assigns, at or upon the Royal Exchange of the City of London, the said sum of four thousand pounds of good and lawful money of Great Britain, together with interest thereon, at and after the rate of six pounds for every one hundred pounds by the year, on or before the fourteenth day of November, in the year of our Lord one thousand seven hundred and seventy-eight, and that without any deduction, defalcation or abatement out of the same, or any part thereof, for or in respect of any taxes, charges, assessments or impositions whatsoever, taxed, charged, or imposed, or to be taxed, charged or imposed upon the said plantations, sugar-work, lands, tenements,

tenements, slaves, hereditaments, and premises, or any part thereof, or upon the said J— M— and T— S—, their heirs, executors, administrators or assigns in respect thereof by any power or authority whatsoever, or for and in respect of any other matter, cause, or thing whatsoever; then and in such case, and at all times thereafter this present Indenture, and every matter, cause, and thing herein contained, shall cease, determine, and be utterly void to all intents and purposes, any thing herein contained to the contrary thereof, in any wise notwithstanding. AND the said J— N— for himself, his heirs, executors and administrators, and for the said A— his wife, DOTH hereby covenant, promise, grant, and agree to and with the said J— M— and T— S—, their heirs, executors, administrators, and assigns, in manner following: that is to say, That he the said J— N—, his heirs, executors or administrators, or some or one of them, shall and will well and truly pay, or cause to be paid unto the said J— M—, and T— S— their executors, administrators, or assigns, the said sum of four thousand pounds, together with interest thereon as aforesaid, at such place and time, and in manner and form as herein before appointed, for payment thereof, without any deduction, defalcation, or abatement as aforesaid, according to the purport of the aforesaid proviso, and the true intent and meaning of these presents. AND ALSO, That they the said J— N— and A— his wife, at the time of the sealing and delivery of these presents, are, or one of them is lawfully and rightfully seised of and in the said plantations and sugar-work, lands, tenements, slaves, and hereditaments, and other the premises hereby granted

granted and released, or intended so to be with their issue and appurtenances, of a good, sure, perfect, absolute, and indefeasible estate of inheritance in fee simple in possession, without any manner of condition, power of revocation, limitation of use or uses, or other matter, cause or thing whatsoever, to alter, change, charge, defeat or determine the same, except as herein after is mentioned. AND ALSO, That they the said J—— N—— and A—— his wife, have in themselves, or one of them hath in himself or herself, at the time of the sealing and delivery of these presents, good right, full power, and lawful and absolute authority to grant, bargain, sell, release and confirm the said plantation and sugar-work, lands, tenements, slaves, hereditaments and premises hereby granted and released, or intended so to be, with their issue and appurtenances unto the said J—— M—— and T—— S——, their executors, administrators, and assigns, in manner aforesaid, and according to the purport, true intent and meaning of these presents; and also that from and after default shall happen of or in payment of the said sum of four thousand pounds, or any part thereof, or of the interest thereof contrary to the form and effect of the aforesaid proviso and covenant for payment of the same, and the true intent and meaning of these presents, it shall and may be lawful to and for the said J—— M——, and T—— S——, their heirs, executors, administrators, and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess, and enjoy the said plantation and sugar-work, lands, tenements, slaves, hereditaments and premises hereby granted and released, or intended so to be, and to receive and take the rents, issues, and profits thereof, and of every part and parcel thereof

thereof to their own proper use and benefit, without the lawful let, suit, trouble, denial, eviction, molestation, or interruption of or by the said J— N— and A— his wife, or either of them, his heirs or assigns, or of or by any other person or persons whomsoever (other than and except the persons claiming, or to claim by, from, or under the prior incumbrance herein after mentioned), and that free and clear, and freely and clearly acquitted, exonerated and discharged, or otherwise by the said J— N—, his heirs, executors, or administrators, well and sufficiently saved, defended, kept harmless, and indemnified of, from, and against all and all manner of former and other gifts, grants, bargains, sales, leases, mortgages, jointures, dowers, titles of dower, uses, trusts, wills, intails, statutes, recognizances, judgments, executions, extents, rent, arrears of rent, and all other titles, charges, and incumbrances whatsoever, other than and except a certain indenture of mortgage from the said J— N—, and A— his wife, to the said J— M—, bearing date on or about the thirty-first day of December, in the year of our Lord, one thousand seven hundred and sixty-seven, and also except the quit-rents thenceforth to become due and payable to his Majesty, his heirs and successors, for and in respect of the said lands hereby granted and released. AND FURTHER, That they the said J— N—, and A— his wife, and his heirs, and all and every other person and persons, having, or lawfully claiming, or who shall or may have or lawfully claim, any estate, right, title, interest of, in, to, or out of the said plantation and sugar-work, lands, tenements, slaves, hereditaments, and premises, mentioned, or intended

tended to be hereby granted and released, or any part thereof, by, from, or under, or in trust for her, them, or any of them, shall and will, from time to time, and at all times, from and after default shall happen to be made of or in payment of the said sum of four thousand pounds, or any part thereof, or of the interest thereof, contrary to the form and effect of the aforesaid proviso and covenant for payment of the same, and the true intent and meaning of these presents, upon the reasonable request of the said J— M— and T— S—, their heirs, executors, administrators, or assigns, and at the proper costs and charges in the law of the said J— N—, his heirs or assigns, make, do, acknowledge, levy, suffer, and execute, or cause or procure to be made, done, acknowledged, levied, suffered, and executed, all and every other lawful and reasonable act and acts, thing and things, devices, coveyances, and assurances in the law whatsoever, for the further, better, more perfect, and absolute granting, conveying, assuring, and confirming the said Plantation and sugar-work, lands, tenements, slaves, hereditaments, and premises, mentioned, or intended to be hereby granted and released, with their issue and appurtenances, unto and to the use of the said J— M— and T— S—, their heirs, executors, administrators, and assigns for ever, according to the nature and quality of the said premises respectively, freed and absolutely discharged of and from the aforesaid proviso or agreement for redemption, and all equity thereupon, as by the said J— M— and T— S—, their executors, administrators, or assigns, or their or any of their council learned in the law, shall be reasonably advised or devised and required. **AND IT IS**
 hereby

hereby declared and agreed, by and between the said parties to these presents, that, in the mean time, and until default shall happen to be made of or in payment of the said sum of four thousand pounds, or some part thereof, or of the interest thereof, contrary to the form and effect of the aforesaid proviso and covenant for payment of the same, and the true intent and meaning of these presents, it shall and may be lawful to and for the said J—N—, his heirs and assigns, peaceably and quietly to have, hold, use, occupy, possess, and enjoy the said plantation and sugar-work, lands, tenements, slaves, hereditaments, and premises, mentioned or intended to be hereby granted and released, and to receive and take the rents, issues, and profits thereof, and of every part and parcel thereof, to his and their own proper use and benefit, without the lawful let, suit, trouble, denial, eviction, molestation, or interruption, of or by the said J—M— and T—S—, or either of them, their or either of their heirs, executors, administrators, or assigns; or of or by any other person or persons lawfully claiming, or to claim, by, from, or under, or in trust for them or any of them. In witness whereof, the said parties to these presents have hereunto set their hands and seals, the day and year first above written.

The SCHEDULE to which the above INDENTURE refers.

Men: Antigua, Essex, Quamin (and 55 more named in the schedule under the deed). Boys: Little Thomas (and 3 more named in the schedule under the deed). Women: Nancy, Senia (and 24 more named in the schedule under the deed).

any force, threats, compulsion, or coercion of or from her said husband.

THOMAS HALLIFAX, Mayor.

TO ALL TO WHOM THESE PRESENTS shall come, I Sir Thomas Hallifax, Knight, Lord Mayor of the City of London, in pursuance of an Act of Parliament made and passed in the fifth year of the reign of his late Majesty King George the Second, intituled, "An Act for the more easy Recovery of Debts in his Majesty's Plantations and Colonies in America," DO HEREBY CERTIFY, That on the day of the date hereof personally came and appeared before me J—— B—— the Deponent named in the Affidavit hereunto annexed, being a person well known, and worthy of good credit; and by solemn oath, which the said Deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true the several matters and things mentioned and contained in the said annexed Affidavit: And I the said Lord Mayor, DO HEREBY FURTHER CERTIFY, That on the day of the date hereof also personally came and appeared before me J—— N——, Esq; and A—— his wife, parties to the annexed indenture of Release, and acknowledged that they severally signed, sealed, and as their respective act and deed delivered the same: AND the said J—— N—— also acknowledged, That he signed the receipt thereon indorsed, and likewise that he signed, sealed, and as his act and deed, delivered the Indenture of Lease hereunto also annexed: AND the said A—— N—— being by me privately examined separate and apart from her said husband, declared, that she executed

cuted the said Indenture of Release, of her own free will and accord, without any force, threats, compulsion, or coercion of or from her said husband.



IN FAITH and testimony whereof, I the said Lord Mayor have not only signed the acknowledgement indorsed on the said Indenture of Release, but have also caused the Seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, dated in London the thirtieth day of November, in the year of our Lord one thousand seven hundred and seventy-six.

BEACH.

LONDON to wit,

J—— B—— of the parish of Saint Giles in the Fields, in the County of Middlesex, Gentleman, being duly sworn upon the Holy Evangelists, maketh oath and saith, That he this Deponent, together with R—— C—— L——, did see J—— N——, Esquire, sign, seal, and as his respective act and deed deliver, the Indentures of Lease and Release hereunto annexed, bearing date respectively the thirteenth and fourteenth days of this instant November, the Release made or mentioned to be made between the said J—— N—— and A—— his wife, of the one part, and J—— M—— and T—— S——, Merchnts, of the other part: And this Deponent, together with the said R—— C—— L——, did also see the said J—— N—— sign the receipt indorsed upon the said Indenture of Release: and this Deponent further saith, That he, together with the said R——

R—— C—— L—— did see the said A——
N——, J—— M——, and T——
S——, severally sign, seal, and as their re-
spective act and deed deliver, the said Indenture
of Release; and that the name J—— N——, set
to the said Indenture of Leases and Release, and
also to the said Receipt indorsed upon the said In-
denture of Release, and the names A—— N——
J—— M——, and T—— S——, set to the said
Indenture of Release, are of the respective proper
hands-writing of them the said J—— N——,
A—— N——, J—— M——, and T—— S——
parties thereto, and that the names R—— C——
L—— and J—— B——, subscribed as witnesses
to the execution of the said Indentures of Lease
and Release, are of the respective proper hands-
writing of the said R—— C—— L——, and
this Deponent; and further this Deponent saith
not.

J—— B——.

Sworn the 30th day of No-
vember 1776, before
me,

THOMAS HALLIFAX, Mayor.

Enrolled in the chief Office of Enrollments in
Jamaica, this 8th March 1777, lib. 282. fol. 37,
Extur.

R. LEWING, Sec.

A P P E N D I X.

THREE orders of the King in Council (relative to the trade between the subjects of his Majesty's dominions, and the inhabitants of the United States of America) made in pursuance of the powers given to his Majesty by 23 Geo. III. c. 39. which was passed the 12th of May 1783, two of which orders were made since this work went to the press, vid. the Act, *antea*, page 41.

At the Court at St. James's, the 14th of May
1783.

P R E S E N T,

The KING's most Excellent Majesty in Council.

WHEREAS, by an Act of Parliament passed this Session, intituled, "An Act for preventing
" certain instruments from being required from
" ships belonging to the United States of Ame-
" rica, and to give to his Majesty, for a limited
" time, certain powers for the better carrying on
" trade and commerce between the subjects of his
" Majesty's dominions, and the inhabitants of the
" said United States," it is, amongst other things,
enacted, That during the continuance of the said
Act, it shall and may be lawful for his Majesty
in Council, by order or orders to be issued and
published from time to time, to give such di-
rections, and to make such regulations with re-
spect to duties, drawbacks, or otherwise, for car-
rying on the trade and commerce between the
people and territories belonging to the Crown of
Great Britain, and the people and territories of

the said United States, as to his Majesty in Council shall appear most expedient and salutary; any law, usage, or custom to the contrary notwithstanding. His Majesty doth therefore, by and with the advice of his Privy Council, hereby order and direct, That any oil, or any unmanufactured goods or merchandises, being the growth or production of any of the territories of the said United States of America, may (until further order) be imported directly from thence into any of the ports of this kingdom, either in British or American ships by British subjects, or by any of the people inhabiting in and belonging to the said United States, or any of them; and such goods or merchandise shall and may be entered and landed in any port in this kingdom, upon payment of the same duties as the like sort of goods or merchandise are, or may be subject and liable to, if imported by British subjects in British ships from any British Island or Plantation in America, and no other; notwithstanding such goods or merchandise, or the ships in which the same may be brought, may not be accompanied with the certificates or other documents heretofore required by law. And it is hereby further ordered and directed, That there shall be the same drawbacks, exemptions, and bounties on merchandises and goods exported from Great Britain into the territories of the said United States of America, or any of them, as are allowed upon the exportation of the like goods and merchandise to any of the Islands, Plantations, or Colonies belonging to the Crown of Great Britain in America. And it is hereby further ordered and directed, That all American ships and vessels which shall have voluntarily come into any port of Great Britain since the 20th of January 1783, shall be admitted

to an entry ; and, after such entry made, shall be intituled, together with the goods and merchandises on board the same ships and vessels, to the full benefit of this order. And the Right Honourable the Lords Commissioners of his Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

W. FAWKENER.

At the Court at St. James's, the 6th of June
1783.

P R E S E N T,

The KING's most Excellent Majesty in Council.

WHEREAS by an Act of Parliament passed this Session, intituled, " An Act for preventing
" certain instruments from being required from
" ships belonging to the United States of Ame-
" rica, and to give to his Majesty, for a limited
" time, certain powers for the better carrying on
" trade and commerce between the subjects of
" his Majesty's dominions, and the inhabitants of
" the said United States," it is amongst other things enacted, That during the continuance of the said Act, it shall and may be lawful for his Majesty in Council, by order or orders to be issued and published, from time to time, to give such directions, and to make such regulations with respect to duties, drawbacks, or otherwise, for carrying on the trade and commerce between the people and territories belonging to the Crown
of

of Great Britain, and the people and territories of the said United States, as to his Majesty in Council shall appear most expedient and salutary ; any law, usage, or custom to the contrary notwithstanding : His Majesty doth therefore, by and with the advice of his Privy Council, hereby order and direct, That pitch, tar, turpentine, indigo, masts, yards, and bowsprits, being the growth or production of any of the United States of America, may (until further order) be imported directly from thence into any of the ports of this Kingdom, either in British or American ships, by British subjects, or by any of the people inhabiting in and belonging to the said United States, or any of them ; and that the Articles above recited shall and may be entered and landed in any port of this Kingdom, upon payment of the same duties as the same are or may be subject and liable to, if imported by British subjects in British ships, from any British Island or Plantation in America, and no other, notwithstanding such pitch, tar, turpentine, indigo, masts, yards, and bowsprits, or the ships in which the same may be brought, may not be accompanied with the certificates or other documents heretofore required by law : and his Majesty is hereby further pleased, by and with the advice aforesaid, to order and direct, That any tobacco, being the growth or production of any of the territories of the said United States of America, may likewise (until further order) be imported directly from thence, in manner above mentioned, and may be landed in this Kingdom ; and upon the importer's paying down in ready money the duty commonly called the old subsidy, such tobacco may be warehoused under his Majesty's locks, upon the porter's own bond for payment of all the duties due for such tobacco, within the

mitted by law, according to the net weight and quantity of such tobacco, at the time it shall be so landed, with the same allowances for the payment of such farther duties; and under the like restrictions and regulations in all other respects, not altered by this order, as such tobacco is and may be warehoused, by virtue of any Act or Acts of Parliament in force. — And the Right Honourable the Lords Commissioners of his Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

STEPH. COTTRELL.

At the Court at St. James's, the 2d of July 1783.

P R E S E N T,

The KING's Most Excellent Majesty in Council.

WHEREAS, by an Act of Parliament passed this Session, intituled, "An Act for preventing
 " certain Instruments from being required from
 " ships belonging to the United States of America,
 " and to give to his Majesty, for a limited time,
 " certain powers for the better carrying on trade
 " and commerce between the subjects of his Ma-
 " jesty's dominions, and the inhabitants of the
 " said United States," it is amongst other things
 enacted, That during the continuance of the said
 Act, it shall and may be lawful for his Majesty
 in Council, by order or orders to be issued and
 published from time to time, to give such direc-
 tions, and to make such regulations with respect
 to duties, drawbacks, or otherwise, for carrying
 on the trade and commerce between the people
 and territories belonging to the Crown of Great
 Britain, and the people and territories of the said
 United